

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-4143

ORIGINAL

B
P/S

In The
United States Court of Appeals
For The Second Circuit

MIRIAM SAKOL,
Petitioner-Appellant,

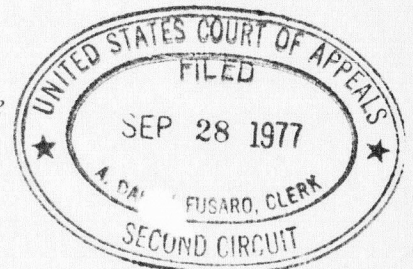
-against

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

APPENDIX FOR APPELLANT

BURTON G. LIPSKY
Attorney for Petitioner-Appellant
230 Park Avenue
New York, New York 10017
(212) 661-9800

M. CARR FERGUSON
Assistant Attorney General
United States Department of Justice
Attorney for Respondent-Appellee
Washington, D.C. 20530



PAGINATION AS IN ORIGINAL

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1a
UNITED STATES TAX COURT
GENERAL DOCKET

DOCKET ENTRIES
(pp.1a-2a)

DOCKET NO. 4834-74

IRIAM SAKOL

70 West End Avenue

New York, New York 10023.

PETITIONER.

VS.

MISSIONER OF INTERNAL REVENUE,

RESPONDENT.

APPEARANCES FOR PETITIONER:

Burton G. Lipsky (Delson & Gordon) 230 Park Ave.,
NAME New York, N.Y. 10017 (2/10/76)

ADDRESS

Date Month Day Year			Filings and Proceedings	Action	Served
July	3,	1974	PETITION FILED: FEE PAID July 3, 1974		July 10, 1974
July	3,	1974	REQUEST by Petr. for trial at New York, New York	GRANTED July 10, 1974	July 10, 1974
Sept.	5,	1974	ANSWER by Resp. filed.		Sept. 6, 1974
Dec.	19,	1975	NOTICE OF TRIAL on Mar. 22, 1976 at New York, N.Y.		Dec. 19, 1975
Feb.	10,	1976	ENTRY OF APPEARANCE by Burton G. Lipsky for petr.		FEB 11 1976
Mar.	22,	1976	HEARING at New York, N.Y. before Judge Goffe.		
			FULLY STIPULATED.		
			filed.		
			Joint motion for separate trial/- GRANTED		APR 2 1976
			Stipulation of facts with attached exhibits filed.		
			Simultaneous:		
			ORIGINAL BRIEFS DUE: May 21, 1976		
			REPLY BRIEFS DUE: June 21, 1976		
			SUBMITTED TO JUDGE GOFFE		
Mar.	26,	1976	TRANSCRIPT of Mar. 22, 1976 received.		
May	14,	1976	MOTION by Resp. to extend time to June 21, 1976 within	GRANTED May 20, 1976	MAY 21 1976
			which to file Original Brief. (No Obj. Petr.)		
June	21,	1976	BRIEF for Petr. filed.		JUN 22 1976
June	21,	1976	BRIEF for Resp. filed.		JUN 22 1976
July	14,	1976	MOTION by Resp. to extend time to Aug. 4, 1976 within	GRANTED July 19, 1976	JUL 19 1976
			which to file Reply Brief. (No Obj. Petr.)		
Aug.	4,	1976	REPLY BRIEF filed by resp.		AUG 6 1976

(Continuation)

GPO : 1972 O - 470-622

PETITION WITH EXHIBITS (pp, 3a-7a)

UNITED STATES TAX COURT

MIRIAM SAKOL

Petitioner(s)

v.

Docket No.

COMMISSIONER OF INTERNAL REVENUE
Respondent

PETITION

1. Petitioner(s) request(s) the Court to redetermine the tax deficiency(ies) for the year(s) 1972, as set forth in the notice of deficiency dated 4-5-74, A COPY OF WHICH IS ATTACHED. The notice was issued by the Office of the Internal Revenue Service at New York City, N.Y.
(CITY AND STATE)

2. Petitioner(s) taxpayer identification (e.g. social security) number(s) 089-28-5921
is (are)

3. Petitioner(s) make(s) the following claims as to his tax liability:

Year	Amount of Deficiency Disputed	Amount of Addition to Tax, if any, Disputed	Amount of Overpayment Claimed
1972	\$ 3318.80		

4. Set forth those adjustments, i.e. changes, in the notice of deficiency with which you disagree and why you disagree.

(b) School expense: see letter of verification

(c) Employee business expenses: see letters of verification

(d) Stock Option Deduction: As the stock in question does not become mine until May 8, 1976 and is being held in trusteeship by Chesebrough-Pond's until that time, I believe that it is Avaricious, Venial and Immoral in the extreme, for the U.S. Government to ask me to pay taxes on stock that does not yet belong to me. It's like asking me to pay taxes NOW on any income I might earn in the year 1983.

Petitioner(s) request(s) that the proceedings in this case be conducted as a "small tax case" under section 7463 of the Internal Revenue Code of 1954, as amended, and Rule 172 of the Rules of Practice of the United States Tax Court. (See page 8 of the enclosed booklet.) A decision in a "small tax case" is final and cannot be appealed by either party.

SIGNATURE OF PETITIONER (PL. HAND)

170 West End Avenue, New York, N.Y. 10023

PRESENT ADDRESS

SIGNATURE OF PETITIONER (WIFE)

PRESENT ADDRESS

SIGNATURE AND ADDRESS OF COUNSEL, IF RETAINED BY PETITIONER(S)

* If you do not want to make this request, you should place an "X" in the following box.

4a
Address any reply to:

Department of the Treasury

PO Box 3100, Church St. Sta., New York, N.Y. 10008

District Director
Internal Revenue Service

Date:

APR 05 1974

In reply refer to:

AU:R:OCD S. Croftin
Tel. 264-3109

1403515

Miss Miriam Sakol
170 West End Avenue
New York, New York 10023

Dear Madam:

Tax Year Ended:	Deficiency:
12/31/72	\$3,318.80

This letter is a NOTICE OF DEFICIENCY—as required by law—that we have determined the income tax deficiencies shown above. I regret we have been unable to reach a satisfactory agreement in your case. The enclosed statement shows how the deficiencies were computed.

If you do not intend to contest this determination in the United States Tax Court, please sign and return the enclosed waiver form. This will permit an early assessment of the deficiencies and limit the accumulation of interest. The enclosed self-addressed envelope is for your convenience.

If you decide not to sign and return the waiver, the law requires that after 90 days from the date of mailing this letter (150 days if this letter is addressed to you outside the United States and the District of Columbia) we assess and bill you for the deficiencies. However, if within the time stated you contest this determination by filing a petition with the United States Tax Court, Box 70, Washington, D.C. 20044, we may not assess any deficiencies and bill you until after the Tax Court has decided your case. You may obtain a copy of the rules for filing a petition by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address.

If you intend to file a petition with the United States Tax Court, you must do so within the time stated above (90 or 150 days, as the case may be); this period is fixed by law, and the Court cannot consider your case if your petition is filed late.

Sincerely yours
Donald C. Alexander
Commissioner

By

Enclosures:
Statement
Waiver, Form 870
Envelope

District Director

FORM 4089
(REV. MAY 1970)

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

SYMBOLS

STATUTORY NOTICE STATEMENT

0A-3

Miss Miriam Sakol
170 West End Avenue
New York, New York 10023

KIND OF TAX

Income

TAX YEAR ENDED

DEFICIENCY

12/31/72

\$3,318.60

In making this determination of your income tax liability, careful consideration has been given to the report of examination, a copy of which was mailed to you on February 13, 1974.

☐ Copy to Authorized Representative:

APR 10 1974

FORM 3611
(REV. MAR. 1970)

INDIVIDUAL INCOME TAX

STATEMENT SCHEDULE

NAME		TAXABLE YEARS ENDED	
Miriam Sakol		12/31/72	
TAXABLE INCOME XXXXXXXXXXXXXXXXXXXX SHOWN IN		\$16,958.00	
☒ RETURN AS FILED ☐ PRELIMINARY LETTER DATED ☐ STATUTORY NOTICE DATED			
INCREASES (DECREASES) IN INCOME: (See attached explanation of items)			
(a) Contributions		372.00	
(b) School expense		300.00	
(c) Employee business expense		1,425.00	
(d) Stock option deduction		6,342.00	
(e) Statutory medical adjustment		315.00	
TAXABLE INCOME AS REVISED XXXXXXXXXXXXXXXXXXXX		\$25,712.00	
TAX COMPUTATION	TAX	7,474.80	
	TAX SURCHARGE		
	TAX PLUS SURCHARGE		
	LESS: TAX CREDITS		
	Political contribution	(10.00)	
	SUBTOTAL	\$ 7,474.80	
	ADD:		
	SELF-EMPLOYMENT TAX	-	
	TAX FROM RECOMPUTING PRIOR YEAR INVESTMENT CREDIT		
	TAX LIABILITY	\$ 7,461.80	
LIABILITY PREVIOUSLY ASSESSED			
	\$ 4,143.00		
DEFICIENCY (XXXXXXXXXXXX)	\$ 3,318.80		

APR 05 1974

Explanation of Adjustments

(a), (b) & (c) - These deductions are disallowed to the extent shown. You did not establish that the disallowed portions of the claimed deductions qualified as ordinary and necessary expense, or that expenditures were made for the purposes designated.

(d) It is determined that income derived from a section 83 stock option plan is includible in gross income as compensation for services rendered. Since this income represents the difference between the fair market value of the stock and the cost to you, the deduction claimed is not an allowable deduction.

(e) Your claimed deduction for medical and dental expenses is disallowed to the extent shown, reflecting the statutory adjustment required by section 213 of the Internal Revenue Code of 1954, and predicated upon your increased adjusted gross income per adjustment (d) supra.

ANSWER (pp. 8a-9a)

UNITED STATES TAX COURT

MIRIAM SAKOL,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

) FILED
)
)
) SEP 5
) Docket No. 4834-74
)
)
)

ANSWER

THE RESPONDENT, in answer to the petition filed in this case, admits and denies as follows:

1., 2., and 3. Admits the allegations of paragraphs 1, 2, and 3 of the petition

4. (b) to (d), inclusive. Denies the allegations of subparagraphs (b) to (d), inclusive, of paragraph 4 of the petition.

5. Denies generally each and every allegation of the petition not hereinbefore specifically admitted, qualified or denied.

WHEREFORE, it is prayed that the deficiency determined
by the respondent be in all respects approved.

MEADE WURTAKER
Chief Counsel
Internal Revenue Service

By: (Sgt) THEODORE E. DAVIS - JF
THEODORE E. DAVIS
Assistant Regional Counsel

42 1 104

OF COUNSEL:

IRVING E. HAGEN,
Regional Counsel,
FREDERICK L. KATZ,
Attorney,
Internal Revenue Service,
26 Federal Plaza (12th Floor),
New York, New York 10007,
Tel. No. 212-264-0256.

STIPULATION OF FACTS AND EXHIBITS
(pp. 10a-55a)

UNITED STATES TAX COURT

-----X

MIRIAM SAKOL,

Petitioner,

v.

Docket No.
4834-74

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

-----X

STIPULATION OF FACTS

The parties hereby stipulate that for the purposes of the above-captioned case the following facts and exhibits attached hereto may be taken as true, subject to the rights of the parties to introduce other and further evidence not inconsistent with this stipulation and preserving the parties' rights to object to the introduction in evidence of any and all portions of said stipulation and attached exhibits as they may deem to be irrelevant or immaterial.

1. Miriam Sakol resides at 170 West End Avenue, New York, New York. She filed a 1972 income tax return

(a copy of which is attached hereto and marked Exhibit 1-A) with the Internal Revenue Service Center, Holtsville, New York.

2. During the years 1971 and 1972 the petitioner was an employee of Chesebrough-Pond's, Inc. In effect in those years was the Stock Purchasing Plan for Officers and Administrative Employees of Chesebrough-Pond's, Inc. (the "Plan"), a true copy of which is attached hereto and marked Exhibit 2-B.

3. On May 7, 1971 petitioner and Chesebrough-Pond's, Inc. executed Common Stock Purchasing Agreement - 1971, a true copy of which is attached hereto and marked Exhibit 3-C.

4. Exhibit 4-D attached hereto is a true copy of the Chesebrough-Pond's, Inc. Prospectus dated April 30, 1971 referred to in Exhibit 3-C.

5. Exhibit 5-E attached hereto is a true copy of a letter dated May 12, 1972 from Chesebrough-Pond's, Inc. to petitioner.

6. From May 7, 1972 through December 31, 1975 Chesebrough-Pond's, Inc. common stock was traded on the New York Stock Exchange; the high price quoted being

\$92.00 per share and the low price quoted being \$26.75 per share.

7. The disallowance of deductions set forth in the Notice of Deficiency dated April 5, 1974 has been adjusted as follows:

<u>ITEM</u>	<u>PER NOTICE OF DEFICIENCY</u>	<u>PER SETTLEMENT</u>
Contributions	372	294
School Expense	300	-0-
Employer Business Expense	1,425	600

BURTON G. LIPSKY
Counsel for Petitioner

CHIEF COUNSEL
Internal Revenue Service

Form

US

Department of the Treasury / Internal Revenue Service
Individual Income Tax Return

1972

For the year January 1–December 31, 1972, or other taxable year beginning 1972, ending 1972

Please print or type

First name and initial (If joint return, use first names and middle initials of both)

MIRIAM

Last name

SAKOL

Your social security number (husband's, if joint return)

089 125 1542

Present home address (Number and street, including apartment number, or rural route)

170 WEST END AVE.

Wife's number, if joint return

City, town or post office, State and ZIP code

NEW YORK N.Y. 10023

Occupation

Yours PART DIRECTOR

Filing Status—check only one:

- 1 ☒ Single
- 2 ☐ Married filing joint return (even if only one had income)
- 3 ☐ Married filing separately. If wife (husband) is also, filing give her (his) social security number and first name here.
- 4 ☐ Unmarried Head of Household
- 5 ☐ Widow(er) with dependent child (Enter year of death of husband (wife) $\rightarrow$ 19)

Exemptions

Regular / 65 or over / Blind

- 6 Yourself ☒ ☐ ☐ Enter number of boxes checked **1**
- 7 Wife (husband) ☐ ☐ ☐
- 8 First names of your dependent children who lived with you _____

- 9 Number of other dependents (from line 32) **1**
- 10 Total exemptions claimed **1**

Income

- 11 Wages, salaries, tips, and other employee compensation. (Attach Form W-2 to front. If unavailable, attach explanation) **11** 324202
- 12a Dividends (see pages 6 and 13 of Instr.) \$ 75 12b Less exclusion \$ 100 Balance **12c** -
- (If gross dividends and other distributions are over \$200, list in Part I of Schedule B.)
- 13 Interest income. [If \$200 or less, enter total without listing in Schedule B] **13**
- [If over \$200, enter total and list in Part II of Schedule B.] **14** 6842
- 14 Income other than wages, dividends, and interest (from line 45) **15** 30544
- 15 Total (add lines 11, 12c, 13 and 14) **16** 6300
- 16 Adjustments to income (such as "sick pay," moving expenses, etc. from line 50) **17** 324202
- 17 Subtract line 16 from line 15 (adjusted gross income)

Caution: If you have unearned income and you could be claimed as a dependent on your parent's return, see boxed instruction on page 7, under the heading "Tax-Credits-Payments." Check this block ☐.

If you do not itemize deductions and line 17 is under \$10,000, find tax in Tables and enter on line 18.

If you itemize deductions or line 17 is \$10,000 or more, go to line 51 to figure tax.

Tax, Payments and Credits

- 18 Tax, check if from: ☐ Tax Tables 1–12, ☒ Tax Rate Schedule X, Y, or Z **18** 4156
- ☐ Schedule D ☐ Schedule G or ☐ Form 4720 **19** 73
- 19 Total credits (from line 61) **20** 4143
- 20 Income tax (subtract line 19 from line 18) **21**
- 21 Other taxes (from line 67) **22** 4143
- 22 Total (add lines 20 and 21) **23** 5142
- 23 Total Federal income tax withheld (attach Forms W-2 or W-2P to front) **24**
- 24 1972 Estimated tax payments (include amount allowed as credit from 1971 return) **25**
- 25 Amount paid with Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return **26** 4143
- 26 Other payments (from line 71) **27** 5610
- 27 Total (add lines 23, 24, 25, and 26)

Bal. Due or Refund

- 28 If line 22 is larger than line 27, enter BALANCE DUE IRS **28**
- 29 If line 27 is larger than line 22, enter amount OVERPAID **29** 1467
- 30 Line 29 to be REFUNDED TO YOU **30** 1467
- 31 Line 29 to be credited on 1973 estimated tax **31**

Foreign Accounts

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? ☐ Yes ☒ No

If "Yes," attach Form 4683. (For definitions, see Form 4683.)

Note: Be sure to complete Revenue Sharing (lines 33 and 34) on next page.

Sign here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge.

Your signature **3/1/73** Date

Preparer's signature (other than taxpayer) **3/1/73** Date

Wife's (husband's) signature (if filing jointly, BOTH must sign even if only one had income) Address (and ZIP Code) Preparer's Emp. Ident. or Soc. Sec. No.

Please attach Copy B of Form W-2 here

Write soc. sec. no. on Check or Money Order. Attach here

Form 1040 (1972)

Page 2

Other Dependents	(a) NAME	(b) Relationship	(c) Months lived in your home. If born or died during year, write "b" or "d"	(d) Did dependent have income of \$750 or more?	(e) Amount YOU furnished for dependent's support. If 100% write ALL	(f) Amount furnished by OTHERS including dependent
					\$	\$

32 Total number of dependents listed in column (a). Enter here and on line 9 1

33 Print or type the location of your principal place of residence at end of year (not necessarily the same as your post office address).

(a) State NY	(b) County New York	(c) Locality. If you lived inside the boundaries of an incorporated city, town, etc., enter its name; if not, check here ☐	(d) Township (see instructions on page 6)
-----------------	------------------------	---	---

34 Enter the number of persons included on line 10 who (1) are filing a return of their own; or, (2) did not live at your principal place of residence at the end of the year 1

For U.S. use only—Leave blank

536061125050005

PART I.—Income other than Wages, Dividends, and Interest

35 Business income (or loss) (attach Schedule C)	35	
36 Net gain (or loss) from sale or exchange of capital assets (attach Schedule D)	36	
37 Net gain (or loss) from Supplemental Schedule of Gains and Losses (attach Form 4797)	37	
38 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E)	38	
39 Farm income (or loss) (attach Schedule F)	39	
40 Fully taxable pensions and annuities (not reported on Schedule E—see instructions on page 8)	40	
41 50% of capital gain distributions (not reported on Schedule D)	41	
42 State income tax refunds (caution—see instructions on page 8)	42	
43 Alimony	43	
44 Other (state nature and source) <i>STOCK OPTION SEE NOTE</i>	44	6342
45 Total (add lines 35 through 44). Enter here and on line 14	45	6342

PART II.—Adjustments to Income

46 "Sick pay" if included in income (attach Form 2440 or other required statement)	46	
47 Moving expense (attach Form 3903)	47	
48 Employee business expense (attach Form 2106 or other statement) <i>SEE NOTE ATTACHED</i>	48	6342
49 Payments as a self-employed person to a retirement plan, etc. (see Form 4348)	49	
50 Total adjustments (add lines 46, 47, 48, and 49). Enter here and on line 15	50	6342

PART III.—Tax Computation (Do not use this part if you use Tax Tables 1-12 to find your tax.)

51 Adjusted gross income (from line 17)	51	24202
52 (a) If you itemize deductions, enter total from Schedule A, line 40 and attach Schedule A } (b) If you do not itemize deductions, enter 15% of line 51, but do NOT enter more than \$2,000. (\$1,000 if line 3 is checked)	52	6454
53 Subtract line 52 from line 51	53	17708
54 Multiply total number of exemptions claimed on line 10, by \$750	54	750
55 Taxable income. Subtract line 54 from line 53	55	16958

(Figure your tax on the amount on line 55 by using Tax Rate Schedule X, Y or Z, or if applicable, the alternative tax from Schedule D, income averaging from Schedule G, or maximum tax from Form 4726.) Enter tax on line 18.

PART IV.—Credits

56 Retirement income credit (attach Schedule R)	56	
57 Investment credit (attach Form 3468)	57	
58 Foreign tax credit (attach Form 1116)	58	
59 Credit for contributions to candidates for public office—see instructions on page 9	59	13
60 Work Incentive Program credit (attach Form 4874)	60	
61 Total credits (add lines 56, 57, 58, 59, and 60). Enter here and on line 19	61	13

PART V.—Other Taxes

62 Self-employment tax (attach Schedule SE)	62	
63 Tax from recomputing prior-year investment credit (attach Form 4255)	63	
64 Minimum tax (see instructions on page 10). Check here ☐ , if Form 4625 is attached	64	
65 Social security tax on tip income not reported to employer (attach Form 4137)	65	
66 Uncollected employee social security tax on tips (from Forms W-2)	66	
67 Total (add lines 62, 63, 64, 65, and 66). Enter here and on line 21	67	

PART VI.—Other Payments

68 Excess FICA tax withheld (two or more employers—see instructions on page 10)	68	468
69 Credit for Federal tax on special fuels, nonhighway gasoline and lubricating oil (attach Form 4136)	69	
70 Credit from a Regulated Investment Company (attach Form 2439)	70	
71 Total (add lines 68, 69, and 70). Enter here and on line 26	71	468

TAXPAYER: MIRIAM SAKOL # 089-28-5921
170 WEST END AVE.
NEW YORK NY 10023

STOCK WAS PURCHASED WHILE TAXPAYER WAS AN EMPLOYEE OF CHASEBROOK FORDS INC. FOR \$2968 UNDER AN EMPLOYEE STOCK OPTION PLAN. WITH AN AGREEMENT THAT THE STOCK CAN NOT BE SOLD FOR A PERIOD OF 5 YEARS.

THE STOCK IS NOW BEING HELD BY THE CO. UNTIL THE 5 YEAR PERIOD IS UP, DURING THE COURSE OF THE YEAR. THE CO. DECLARED THAT ALL PERSONS WHO PURCHASED THE STOCK WOULD BE CHARGED AS EXTRA COMPENSATION THE FAIR MARKET VALUE AT THE TIME OF PURCHASE WHICH EQUALS \$6,342.

THE TAXPAYER HAS NEVER RECEIVED ANY MONEY FROM THE STOCK, AND CANNOT BE CHARGED FOR IT. UNTIL THE STOCK IS SOLD

Schedules A&B—Itemized Deductions AND (Form 1040) Dividend and Interest Income

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040.

049
1972

Name(s) as shown on Form 1040

Miriam Saked

Your social security number

089 28 5721

Schedule A—Itemized Deductions (Schedule B on back)

Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc.

- 1 One half (but not more than \$150) of insurance premiums for medical care. (Be sure to include in line 10 below.)
- 2 Medicine and drugs *See Cash Receipts*
- 3 Enter 1% of line 17, Form 1040
- 4 Subtract line 3 from line 2. Enter difference (if less than zero, enter zero)
- 5 Enter balance of insurance premiums for medical care not entered on line 1
- 6 Itemize other medical and dental expenses. Include hearing aids, dentures, eyeglasses, transportation, etc.

DR PATRICK 55
DR SCHURFSKY 65
DR SCARON DDS 150
DR BEER 50
**DR FLAHERTY* 500
**DR SPAN* 500
EYE GLASSES 60

TRAVEL TO AND FROM DRS 160

**PSYCHIATRIC CARE*

- 7 Total (add lines 4, 5, and 6)
- 8 Enter 3% of line 17, Form 1040
- 9 Subtract line 8 from line 7. Enter difference (if less than zero, enter zero)
- 10 Total deductible medical and dental expenses (Add lines 1 and 9. Enter here and on line 33, below.)

Taxes.

- 11 Real estate
- 12 State and local gasoline (see gas tax tables)
- 13 General sales (see sales tax tables)
- 14 State and local income
- 15 Personal property
- 16 Other

- 17 Total taxes (Add lines 11 through 16. Enter here and on line 34, below.)

Contributions.—Cash—including checks, money orders, etc. (Itemize—see instructions on page 11 for examples.)

- TEMPLE EMERGENCY* 250
VARIOUS RECOGNITION 200
18 Total cash contributions 450
19 Other than cash (see instructions on page 12 for required statement). Enter total for such items here
20 Carryover from prior years
21 Total contributions (Add lines 18, 19, and 20. Enter here and on line 35, below.) 450

Interest expense.

- 22 Home mortgage
- 23 Installment purchases
- 24 Other (Itemize) *CHEMICAL BANK* 300
CHEMICAL BANK 150
MASTERS SERVICE 100
ROBERT TAYLOR 100
- 25 Total interest expense (Add lines 22, 23 and 24. Enter here and on line 36, below.) 670

Casualty or theft loss(es)

See instructions on page 12. NOTE: If you had more than one casualty or theft loss occurrence, OMIT lines 25 through 29 and see page 12 of the instructions for guidance.

- 25 Loss before adjustments
- 27 Insurance reimbursement
- 28 \$100 limitation 100 00
- 29 Add lines 27 and 28
- 30 Casualty or theft loss. (Excess of line 25 over line 29. Enter here and on line 37, below.)

- 31 Child and dependent care expenses from Form 2441. (Enter here and on line 38, below.)

Miscellaneous deductions for alimony, union dues, etc. (see instructions on page 13).

- RECORD FEES* 50
TECH PUBLICATIONS 165
SCHOOL NECESSARY FOR SON 300
UNREIMBURSED BUSINESS EXP 1425

- 32 Total miscellaneous deductions (Enter here and on line 39, below.) 1940

Summary of Itemized Deductions

- 33 Total deductible medical and dental expenses (from line 10) 1137
- 34 Total taxes (from line 17) 2297
- 35 Total contributions (from line 21) 450
- 36 Total interest expense (from line 25) 670
- 37 Casualty and theft loss(es) (from line 30)
- 38 Child and dependent care expenses (from line 31)
- 39 Total miscellaneous deductions (from line 32) 1940
- 40 TOTAL ITEMIZED DEDUCTIONS. (Add lines 33 through 39. Enter here and on Form 1040, line 52.) 4404

131953730

131953730

WAGE AND TAX STATEMENT 1972

COPY B-To be filed with employee's FEDERAL tax return

*Excludes sick pay.
 †Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.
 ‡Add this item to wages in reporting wages and salaries on your income tax return.
 §The social security (FICA) rate of 5.2% includes .6% for Hospital Insurance Benefits and 4.6% for old-age, survivors, and disability insurance.
 ¶Includes tips reported by employee.

EMPLOYEE'S name, address, and zip code above		SOCIAL SECURITY INFORMATION		STATUS		GROSS WAGES FOR STATE IN DIFFERENT FROM FEDERAL	
Federal income tax withheld	Wages paid subject to withholding in 1972	Other compensation paid in 1972	FICA employee tax withheld	Total FICA wages paid in 1972	1 Single 2 Married		
.70	14586.86	.00	468.00	9000.00	S		
CITY INCOME TAX WITHHELD				STATE INCOME TAX WITHHELD			
217.66				802.77			
NAME OF STATE				STATE FORM NO.			
NEW YORK				IT-2102			
NAME OF CITY				CITY FORM NO.			
NEW YORK							
*EXCLUDABLE SICK PAY				**UNCOLLECTED EMPLOYEE TAX ON TIPS			

Type or print EMPLOYEE'S name and address (including ZIP code) above.

FORM W-2—U.S. Treasury Department, Internal Revenue Service APP. I.R.S. 5/72

CHESEBROUGH-POND'S INC.
 33 BENEDICT PLACE
 GREENWICH, CONN. 06030
 S.S. NO. 13-1840427

WAGE AND TAX STATEMENT—1972

Copy B-To be filed with employee's FEDERAL tax return

Type or print EMPLOYER'S identification number, name, and address above			Employer's State Identification Number		31 60 62 0166	
FEDERAL INCOME TAX INFORMATION			SOCIAL SECURITY INFORMATION		STATUS	
Federal income tax withheld	Wages paid subject to withholding in 1972	Other compensation paid in 1972	F.I.C.A. employee tax withheld	Total F.I.C.A. wages paid in 1972	1. Single 2. Married	
1958.49	9614.54	6342.00	468.00			
EMPLOYEE'S social security no. ▶			Name of State		State Form No.	
089 28 5921			NEW YORK		IT-2102	
NAME OF CITY			State income tax withheld			
NEW YORK			494.96			
City Form No.			City income tax withheld			
NYC-2			145.99			
Type or print EMPLOYEE'S name and address (including ZIP code) above			*Excludable sick pay. **Gross wages for State if different from Federal.			
MIRIAM SAKOL			1 Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.			
170 WEST END AVENUE			2 Add this item to wages in reporting wages and salaries on your income tax return.			
NEW YORK NY 10023			3 The social security (FICA) rate of 5.2% includes .6% for Hospital Insurance Benefits and 4.6% for old-age, survivors, and disability insurance.			
			4 Includes tips reported by employee.			
			Uncollected Employee Tax on Tips \$			

FORM W-2 Department of the Treasury, Internal Revenue Service

APP. IRS 5-72

PRINTED BY THE STANDARD REGISTER COMPANY, U.S.A.

**STOCK PURCHASING PLAN
FOR OFFICERS AND
ADMINISTRATIVE EMPLOYEES
OF CHESEBROUGH-POND'S INC.**

A Stock Purchasing Plan for Officers and Administrative Employees was established by the Company in 1946 pursuant to vote of its Stockholders.

Continuation of the Plan was approved by Stockholders in 1956, 1961 and again in 1968. In each case additional shares of the Company's stock were reserved for issuance and sale under the Plan. The Plan currently in effect is set forth below:

(a) The Board of Directors may appoint a Special Committee of three of its members who do not participate in the Plan to administer the Plan and from time to time and within the limits of the Plan to designate administrative employees including officers entitled to participate in the Plan and the extent and terms of their participation. The Board of Directors or Special Committee shall select in each year those officers and employees, who are to be given the opportunity of participating in the Plan, and shall designate in each year the number of shares, but not exceeding 4% of the maximum number of shares that may be subscribed for during any one year, which each such participant respectively may purchase under the Plan. Each officer or employee electing to purchase stock

shall enter into an agreement with the Company containing such terms, as may be specified by the Board of Directors or Special Committee. No right to purchase and no purchase agreement shall be assignable by any officer or employee participating in the Plan.

(b) Not more than 150,000 shares of the \$1 par value stock shall be subscribed for during any one calendar year.

The Plan shall continue in effect until all of the shares authorized and reserved for sale under the Plan are issued and sold, subject, however, to the power of the Board of Directors to terminate and discontinue the Plan at any time.

In the event of any dividend being declared by the Company payable in shares of its Common Stock, or there being a split-up or combination of the shares of its outstanding Common Stock subsequent to May 2, 1968, the number of shares that the officers and employees shall thereafter be entitled to purchase under the Plan and the number of shares covered by outstanding purchase agreements, shall in any of such events be proportionately changed. However, no fractional shares shall be issuable, and in lieu thereof a credit against the purchase price will be allowed.

If the shares of Common Stock of the Company shall be otherwise reclassified, or if the Company shall be reorganized or consolidated or merged with another corporation, each officer and em-

ployee who has entered into a purchase agreement hereunder and complied with the terms thereof shall, at the time for issuance of stock under the agreement, be entitled to receive the same number and kind of shares of stock or the same amount of other property, cash or securities (subject to adjustment by cash payment in lieu of fractional interests) as he would have been entitled to receive upon the happening of such reclassification, reorganization, consolidation or merger, if he had been immediately prior to such event, the holder of the number of shares issuable under the purchase agreement.

If liquidation of the Company is authorized, each officer and employee who has entered into a purchase agreement hereunder and complied with the terms thereof shall have a period of thirty (30) days within which to pay the balance due under his purchase agreement. If such payment is not made within such period the Company may cancel and rescind the purchase agreement upon payment to such officer or employee of an amount equal to the aggregate amount paid by him under his purchase agreement toward shares which had not been issued to him.

(c) The price to be paid for the shares of stock that are sold in each year shall be an amount equal to fourteen times the Company's average earnings per share during the preceding five years as shown in the Annual Reports to the Stockholders. Such amount and such average earnings per share shall be adjusted and changed in exact proportion to

any change in the number of outstanding shares of the Company's Common Stock.

(d) Payment for the shares may be in installments over a period of not exceeding five years provided that each participating officer and employee shall have the right to prepay the entire amount due at any time. Shares shall not be issued and delivered to, nor shall title to such shares vest in, any officer or employee until paid for in full, but the Board of Directors may prescribe from time to time the minimum number of shares (not less than two hundred shares) which the Company shall be required to issue upon payment of the full purchase price thereof. All sales of shares under the Plan shall be made upon the condition that the purchaser shall continue in the ownership of such shares and not sell, pledge or transfer any interest therein for a period of five years after the date of acceptance of the purchase agreement by the Company; provided however, that the Board of Directors or Special Committee may at any time release the purchaser from such last mentioned agreement, and provided further that the Company shall not in any way thereby be required to continue any purchaser in its employ. The certificates representing shares subject to the five-year restriction may bear a legend referring thereto.

On dividend payment dates the Company shall pay to, or apply against the amount payable by, each participating officer or employee who is then actively employed by the Company an amount equal to the amount of dividends paid by the Com-

pany with respect to a number of shares equal to the number of shares which such officer or employee has agreed to purchase but which have not yet fully been paid for or issued. Each participating officer and employee will be charged with interest on the unpaid balance of the purchase price at such annual rate as is prescribed by the Board of Directors or Special Committee at the time the particular purchase agreement is executed.

If, while the Plan is in effect, the Company shall offer any subscription rights to its Stockholders, each participating officer and employee shall have the right to subscribe at the subscription price for such securities as he would be entitled to subscribe for if he were then the record holder of the number of shares of Common Stock which are then the subject of outstanding purchase agreements entered into by him; or, at the officer's or employee's election, he may agree to purchase at the subscription price the securities which he would be entitled to subscribe for as aforesaid under the applicable terms and conditions (including date of final payment) set forth in the purchase agreement of most recent date entered into by him under the Plan. Officers and employees shall not have the right to sell or assign any such subscription rights.

(c) Such part of the purchase price of each share issued and purchased under the Plan as is equal to the par value of the shares so purchased, shall be credited to and shall form part of the capital of the Company, and such part thereof as is in excess of such par value, shall be credited to

and shall form part of the Company's surplus, and all of such purchase price, whether it be capital or surplus, shall be used for the general corporate purposes of the Company.

(f) Officers and employees of a subsidiary corporation shall also be eligible to participate in the Plan.

(g) If any officer or employee who has purchased shares under the Plan shall leave the employ of the Company and shall be indebted to the Company under the Plan, his indebtedness shall become automatically due and payable sixty days thereafter.

In the event of the severance of employment of any participating officer or employee within one year of the date of purchase of shares pursuant to the Plan for any reason other than death, the Company shall have an option exercisable within sixty days after such severance of employment to purchase any shares issued to such officer or employee for the amount paid by him for such shares and to cancel and rescind the purchase agreement of such officer or employee by paying to such officer or employee an amount equal to the amount paid by him with respect to shares not fully paid for or issued. The certificates representing shares subject to the Company's option to repurchase may bear a legend referring thereto.

In the event of the death, while in the employ of the Company, of any officer or employee who

shall be indebted to the Company under the Plan, his rights therein shall become a part of his Estate and his executor, administrator or distributees shall have the right to complete payment of the purchase price in accordance with the terms and conditions of his purchase agreement within six months after the death of the officer or employee. The Board of Directors or Special Committee may extend this six months' period in its discretion, but not beyond six months from the date of qualification of the executor or administrator of the Estate of such officer or employee.

If any officer or employee, or in the event of his death, his executor, administrator or distributees, shall default upon, or discontinue the payments due under his purchase agreement, the Company, in the discretion of the Special Committee, shall have the right in lieu of pursuing its other legal remedies to cancel and rescind such purchase agreement and repay to the officer or employee, or in the event of death, to his executor, administrator or distributees, all amounts paid to the Company on the purchase of the shares not fully paid for or issued.

Any of the shares reserved for issuance under the Plan which are not issued due to cancellation of a purchase agreement and any shares purchased by the Company upon exercise of its option to purchase may be reoffered under the Plan.

(h) The Board of Directors shall have power to interpret the provisions of the Plan and make

such rules and provisions carrying out the Plan, as they may determine from time to time, and to amend the Plan except as to the total number of shares that may be sold in any one year and the price per share to be paid therefor. The Board of Directors shall also have the power to terminate and discontinue the Plan at any time.

COMMON STOCK PURCHASING AGREEMENT - 1971

CHESEBROUGH-POND'S INC.
485 Lexington Avenue
New York, New York 10017

Dear Sirs:

I agree to purchase from you 140 shares of your \$1 par value common stock under the Stock Purchasing Plan for certain of your officers and other administrative employees which was approved by your stockholders at their annual meeting on May 2, 1968, as amended, and I agree to pay therefor the consideration of \$21.20 per share, or a total of \$ 2,968.00 less any amount applied against the purchase price pursuant to the Plan.

I understand that this purchase of said shares by me is to be in all respects subject to and in accordance with the Stock Purchasing Plan, as amended, a copy of which is in my possession, but in the event of any conflict between the provisions of said Plan and this agreement, the terms of the Plan shall prevail. In furtherance thereof, I agree to the following:

1. The shares to be purchased by me shall not be issued nor shall title thereto vest in me until payment in full of the entire purchase price has been made provided that the Company may at its discretion issue from time to time certificates for the number of shares but not less than two hundred for which payment of the full purchase price has been received by the Company.
2. I agree to pay said purchase price in semi-monthly installments of at least \$25.20 each, and I hereby request and irrevocably authorize you to deduct or cause to be deducted from my salary semi-monthly an amount equal to said installment. I understand I have the right however to make additional payments, or to pay the entire balance due thereon at any time.
3. I agree that I will not assign this purchase agreement, and further agree that whether or not I remain in your employ, I will continue in the ownership of shares issued pursuant to this agreement and will not sell, pledge or transfer any interest in the same for a period of five (5) years after the date of your acceptance hereof. I understand that you are willing to retain in safekeeping for me the certificates for all shares issued in my name hereunder until the expiration of the restriction period. I agree that if upon my request any certificates are delivered to me before the restriction period has expired they shall bear a legend referring to this restriction. I further agree to surrender to you any certificates that may have been delivered to me prior to the expiration of the restriction period if such surrender becomes necessary as a result of default or other breach of this agreement.
4. If I shall leave your employ before I shall have paid said purchase price in full, the balance due and owing to you by me hereunder shall automatically become due and payable sixty (60) days thereafter.

In the event of severance of my employment within one year of the date of acceptance of this purchase agreement by the Company for any reason except my death, the Company shall have an option exercisable within sixty (60) days after such severance of employment to purchase any shares issued hereunder for the amount paid by me for said shares and to cancel this purchase agreement by paying to me an amount equal to the amount paid by me or applied to my account with respect to shares not fully paid for or issued. Any certificates delivered to me prior to the end of such one-year period shall bear a legend referring to the Company's option to repurchase.

5. In the event of my death while in your employ all of my rights herein shall become a part of my estate and my executor, administrator or distributees shall have the right to complete payment of the purchase price in accordance with the terms and conditions of this agreement within six (6) months after my death.
6. If I, or in the event of my death, my executor, administrator or distributees, shall fail to comply with any of the provisions of this agreement, you shall have the right to declare the entire balance owing by me to you hereunder immediately due and payable. Further, you, in the sole discretion of your Special Committee, shall have the right in lieu of pursuing your other legal remedies to cancel and rescind this agreement, and repay to me, or in the event of my death, to my executor, administrator or distributees, all amounts paid by me or applied to my account on the purchase of shares not fully paid for or issued hereunder.
7. In any matter not expressly covered by this agreement, I agree to abide by all rules and provisions as to procedure in carrying out said Stock Purchasing Plan as amended and such amendments thereunder as may be adopted by your Board of Directors or stockholders, or any action and decision of the Special Committee appointed by your Board of Directors to administer said Plan. I also agree that this agreement shall be construed and interpreted in accordance with the laws of the State of New York.
8. This agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns and personal representatives.
9. This agreement is executed in duplicate and shall be effective as of the date of acceptance stated below.

Receipt is hereby acknowledged of a copy of the Company's Prospectus under the Securities Act of 1933 relating to the shares offered under the Plan.

Very truly yours,

Name s/ Miriam Sakol

Address 170 West End Avenue

New York, NY 10023

CHESEBROUGH-POND'S INC.

By: s/ D. G. Weisen

Treasurer

We accept this agreement and hereby agree to its terms.

Dated: New York, New York

MAY 7 1971

Chesebrough-Pond's Inc.

Common Stock

(Par Value \$1 per Share)

Offered as set forth herein under "Stock Purchasing Plan"
to officers and administrative employees of
CHESEBROUGH-POND'S INC.
and Subsidiaries

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES
AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE
ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION
TO THE CONTRARY IS A CRIMINAL OFFENSE.

No person has been authorized to give any information or to make any representations other than as contained in this Prospectus in connection with the offer contained therein, and, if given or made, such information or representations must not be relied upon as having been authorized by the Company. The delivery of this Prospectus at any time does not imply that information herein is correct as of any time subsequent to its date. This Prospectus does not constitute an offer or a solicitation by the Company within any jurisdiction to any person to whom it is unlawful for the Company to make such offer or solicitation within such jurisdiction.

The date of this Prospectus is April 30, 1971.

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STOCK PURCHASING PLAN

Shares of Common Stock of the Company are being offered hereby pursuant to the terms of its Stock Purchasing Plan for Officers and Administrative Employees, the most recent continuation of which was approved by stockholders in 1968. Each participant purchasing shares under the Plan will be required to execute a purchase contract obligating him to buy and pay for his shares upon the terms and conditions stated therein and in the Plan. The following summaries of the provisions of the Plan and current Stock Purchasing Agreement do not purport to be complete and are subject in all respects to the full provisions of such documents, copies of which have been or will be delivered to each person to whom stock is offered under the Plan. The Company intends to use for its general corporate purposes the net proceeds received from the sale of shares pursuant to the Plan.

Stock to be Offered

491,085 shares were reserved for issuance under the Plan as of March 19, 1971, of which 97,640 were subject to purchase contracts. For information concerning sales under the Plan for the five years ended December 31, 1970 see Note 5 to consolidated financial statements. Not more than 150,000 shares may be sold during any one year and not more than 4% thereof to any one individual in such year. Any shares offered but not issued by the Company due to cancellation of purchase contracts or otherwise, and any shares reacquired by the Company upon its option to purchase referred to below, may be re-offered under the Plan.

Participants

The Board of Directors has appointed a Committee of non-participating directors to administer the Plan. The Committee will, from time to time, designate the employees entitled to participate and will prescribe the extent and terms of their participation, subject to the provisions of the Plan. All officers and administrative employees of the Company and its subsidiaries, excluding members of the Board who are not full-time salaried officers, are eligible to participate if designated by the Committee.

Price

The price for shares to be offered under the Plan will be an amount equal to fourteen times the Company's average earnings per share during the five years next preceding the year in which the offering is made, as shown in the Company's Annual Report to stockholders. During 1971, the price computed in this manner is \$21.20 per share.

Restriction on Disposition

Each participant is prohibited from selling, pledging or transferring any interest in shares purchased by him for a period of five years after date of acceptance of his purchase contract by the Company.

Payment

Payment for shares purchased under the Plan may be made in monthly installments over a period not exceeding five years and each participant is given the right to prepay the entire amount due at any time.

Dividends

Cash dividends will not accrue upon unissued stock.

Default by Purchaser

If a purchaser defaults in payment of the purchase price, the Company in its discretion may declare the entire balance immediately due and payable or rescind the agreement with respect to unissued shares upon repayment to the employee of all amounts previously paid by him with respect thereto.

Delivery of Shares, Voting Rights, Anti-Dilution Provisions.

Subscription Rights, Assignability of Rights

Certificates for shares may be issued from time to time as the purchase price thereof is paid in full, but until payment in full and the issuance of the certificate, the participant will have no voting rights or other rights as a stockholder. The Board of Directors may prescribe from time to time the minimum number of shares (not less than 200) which the Company shall arrange to issue when paid for in full.

Provision is made in the Plan to adjust the shares reserved and the shares subject to outstanding purchase contracts to reflect any stock dividend, stock split or combination and to permit the holders of purchase contracts to participate in any subscription offerings to the holders of the Company's Common Stock. Provision is also made to adjust the shares subject to outstanding purchase contracts to reflect any reclassification, reorganization or merger.

A participant's rights under the Plan or under any purchase contract are nonassignable except that his estate has the right to complete payment of the purchase price within six months after the date of death.

Termination of Employment

If a participating employee ceases to be employed by the Company for any reason except death, the unpaid balance under his purchase contract will become automatically due and payable sixty days after the date his employment is terminated. In the event his employment terminates within one year of the date of purchase for any reason other than death, the Company will have an option exercisable within sixty days after termination of employment to purchase any shares issued to the participant for the amount paid by him for such shares and to rescind the purchase contract of the participant with respect to unissued shares by paying to him an amount equal to the amount paid by him with respect to the unissued shares.

Tax Effect

Pursuant to the amendments to the tax laws made by the Tax Reform Act of 1969, there is taxed as ordinary income to the participants in the Plan the amount by which the purchase price is less than the market price on the date the shares are no longer subject to substantial risk of forfeiture (one year from the date of execution of the purchase contract) or the date on which the "property is transferred," whichever is later. Such income will be taxable in the year in which "property is transferred" unless such property is then subject to substantial risk of forfeiture, in which case the income would be taxable in the year in which such risk ends. However, the Act also provides that the employee may elect to include in his income in the year in which "property is transferred" the amount by which the purchase price is less than the market price on the date the "property is transferred" notwithstanding a substantial risk of forfeiture which expires at a later date. The date on which "property is transferred" under the Plan within the meaning of such Act is subject to regulations to be issued by the Treasury Department.

The Company will be entitled to a tax deduction, at the then applicable corporate tax rates, corresponding in amount and taxable year to the amount taxable, and the taxable year in which taxed, to the employee. In effect, any tax benefit provided by the tax laws will increase the consideration that will be received by the Company for stock sold by it under the Plan.

The foregoing is a general summary of the tax effect of acquisition of stock under the Plan. Employees with questions respecting the tax impact on them should consult tax counsel.

Termination of Plan

The Plan shall continue in effect until all of the shares authorized and reserved for sale are issued and sold subject, however, to the power of the Board of Directors to terminate the Plan at any time. Termination of the Plan shall not affect outstanding purchase contracts.

THE COMPANY

The Company was incorporated as Chesebrough Manufacturing Company, Consolidated on May 11, 1880, under the laws of the State of New York, consolidating various domestic and foreign units of an enterprise originally established in 1870. In 1955 the name of the Company was changed to Chesebrough-Pond's Inc. following a merger with Pond's Extract Company, a business originally commenced in 1846. The term "Company" as used herein refers, unless the context otherwise indicates, to Chesebrough-Pond's Inc. and its subsidiaries. The Company's executive headquarters are located at 485 Lexington Avenue, New York, N. Y. (Tel.: (212) 4900).

The Company is principally engaged in the manufacture and marketing to consumers of branded packaged goods, including cosmetics and many specialty products throughout the United States and in most of the countries of the free world and fragrances, fashion items and specialty foods in the United States and Canada. In some areas outside the United States, the Company also distributes products of other manufacturers. It also manufactures and distributes hospital supplies in the United States and Canada. The Company's products are in general popularly priced and produced for mass distribution primarily through wholesalers and food, drug and variety chains. The Company is one of the leading United States companies in the cosmetic field and is the leading United States producer of popularly priced mass-distributed cosmetics. Fragrances and fashion items are higher priced and are sold primarily through department and independent drug stores. Specialty foods are primarily distributed through food brokers to wholesalers and food chains. Hospital supplies are sold directly to governmental agencies and through dealers.

PRICE RANGE OF COMMON STOCK

The reported annual high and low quotations of the Common Stock of the Company on the New York Stock Exchange from January 1, 1966 through April 28, 1971 are given below:

<u>Year</u>	<u>High</u>	<u>Low</u>	<u>Year</u>	<u>High</u>	<u>Low</u>
1966	32	20	1969	54½	37
1967	44¾	27½	1970	52¾	32¾
1968	48½	34½	1971 (through April 28, 1971) ..	56¾	44½

CAPITALIZATION

The capitalization of the Company and its consolidated subsidiaries as of March 19, 1971 (including current portion of long-term obligations) is shown in the following table:

	<u>Outstanding</u>
6¾% Guaranteed (Subordinated) Debentures due December 15, 1984 of Chesebrough-Pond's International Capital Corporation (convertible into Common Stock of Chesebrough-Pond's Inc.)	\$25,000,000
4¾% Guaranteed (Subordinated) Debentures due December 31, 1983 of Chesebrough-Pond's International Capital Corporation (convertible into Common Stock of Chesebrough-Pond's Inc.)	\$ 9,504,000
5% Promissory Notes due August 1, 1976 (payable in equal annual installments of \$1,000,000)	\$ 6,000,000
Promissory Note due March 10, 1975 of Ragu Foods, Inc. (payable in monthly installments), bearing interest at ½% above prime rate (prime rate 5¼% at March 19, 1971) ..	\$ 2,050,182
Long-Term Lease Obligation	\$ 4,625,000
Common Stock, par value \$1 per share (Authorized—15,000,000 shares) (14,290 shareholders)	12,040,598.*

* Excludes 491,085 shares reserved for issuance under the Company's Stock Purchasing Plan, 57,194 shares held in the Treasury and 661,248 shares reserved for issuance upon conversion of debentures.

The Company has authorized 1,000,000 shares of Preferred Stock, par value \$1 per share, none of which has been issued.

See Notes 6 and 9 to Consolidated Financial Statements concerning the Company's lease obligations.

CONSOLIDATED STATEMENT OF INCOME

The consolidated statement of income for the five years ended December 31, 1970 has been examined by Arthur Young & Company, certified public accountants, whose report with respect thereto (which, as to the year 1966, is based in part on the reports of other independent public accountants) appears elsewhere in this Prospectus. The statement should be read in conjunction with the other consolidated financial statements appearing in this Prospectus.

	Year ended December 31,				
	1966	1967	1968	1969	1970
	(In thousands of dollars)				
Net sales (a) (b)	\$168,025	\$180,879	\$205,492	\$230,908	\$260,986
Royalties (b)	2,139	2,205	2,072	1,966	1,731
Operating revenue	170,164	183,084	207,564	232,874	262,717
Operating costs:					
Cost of products sold (c)	67,388	75,644	86,383	99,369	108,425
Selling, advertising and administrative (c)	77,497	78,427	86,196	94,880	112,127
	144,885	154,071	172,579	194,249	220,552
Operating income	25,279	29,013	34,985	38,625	42,165
Other income (expenses):					
Interest income	530	433	777	1,699	1,569
Gain (loss) on disposal of assets (d)	274	953	(31)	110	(112)
Interest expense (principally long-term debt)	(956)	(829)	(1,212)	(2,684)	(4,030)
Loss on foreign exchange	(796)	(540)	(133)	(219)	(977)
New plant start-up expense	(945)	(1,892)	—	—	—
Minority interest in earnings of consolidated subsidiaries	—	—	—	—	(439)
Miscellaneous—Net	526	715	(281)	7	140
	(1,367)	(1,160)	(880)	(1,087)	(3,849)
Income before federal and foreign taxes on income and related charge	23,912	27,853	34,105	37,538	38,316
Provision for taxes on income and related charge:					
Taxes on income:					
Federal	6,324	8,132	11,298	11,761	11,569
Foreign	3,402	3,565	4,593	5,298	5,206
Charge equivalent to tax benefit relative to the Stock Purchasing Plan (e)	783	546	570	464	663
	10,509	12,243	16,461	17,523	17,438
Net income (a) (b)	\$ 13,403	\$ 15,610	\$ 17,644	\$ 20,015	\$ 20,878
Per share of common stock:					
Net income (f)	\$1.18	\$1.37	\$1.53	\$1.73	\$1.76
Cash dividends	\$.70	\$.78	\$.86	\$.94	\$1.01

See accompanying notes on following page.

NOTES TO CONSOLIDATED STATEMENT OF INCOME

- (a) Reconciliation of net sales and net income as restated to reflect poolings of interests with amounts previously reported to the stockholders is as follows:

	1966	1967	1968
	(In thousands of dollars)		
Net sales:			
As originally reported	\$157,207	\$165,725	\$185,833
Pooled companies	10,818	15,154	19,659
As restated	<u>\$168,025</u>	<u>\$180,879</u>	<u>\$205,492</u>
Net income:			
As originally reported	\$ 12,551	\$ 14,783	\$ 16,414
Pooled companies	852	827	1,230
As restated	<u>\$ 13,403</u>	<u>\$ 15,610</u>	<u>\$ 17,644</u>

- (b) Foreign operations accounted for the following:

	Year ended December 31,									
	1966		1967		1968		1969		1970	
	Amount	% of Consolidated Total	Amount	% of Consolidated Total	Amount	% of Consolidated Total	Amount	% of Consolidated Total	Amount	% of Consolidated Total
	(In thousands of dollars)									
Net sales	\$60,782	36	\$64,544	36	\$79,100	39	\$92,098	40	\$111,352	43
Royalties	2,139	100	2,205	100	2,072	100	1,966	100	1,731	100
Net income	5,115	38	5,311	34	6,407	36	7,611	38	8,323	40

With certain minor exceptions, the Company at present has no difficulty in converting foreign currencies from current transactions into United States dollars and remitting to the United States.

- (c) See Note 9 to the consolidated financial statements for the depreciation and amortization charges for the five years ended December 31, 1970.
- (d) 1967 includes a gain on the sale of the *Measurin* product line.
- (e) See Note 5 to the consolidated financial statements for explanation of the tax benefit arising from the Company's Stock Purchasing Plan.
- (f) Based on the average number of shares outstanding during the respective years, including in 1966-1968 the shares of common stock issued in 1969 (including 885,000 shares issued on February 10, 1970 and treated as outstanding during the four years ended December 31, 1969) for the acquisitions accounted for as poolings of interests. Dilution relating to convertible debentures, warrants and other rights was not material. See Note 6 to the consolidated financial statements for restrictions on the payment of dividends.

(See also notes to consolidated financial statements.)

DIVIDENDS

The Company has operated at a profit and has paid cash dividends in each year since 1883. Dividends paid in each of the five years 1966 through 1970 are shown under "Consolidated Statement of Income". A dividend of \$.26 per share was paid on March 25, 1971. The Board of Directors of the Company intends to continue its policy of paying quarterly cash dividends. Future dividends, however, will depend on future earnings and other factors not presently determinable.

See Note 6 to the consolidated financial statements as to restrictions on the payment of dividends.

BUSINESS

The Company is principally engaged in the business of manufacturing and marketing branded packaged goods to consumers worldwide, who purchase these through certain basic types of retail outlets. It also manufactures and distributes hospital supplies to institutions, mostly in the United States.

Products

Consumer Package Goods

COSMETICS—The Company produces a large number of cosmetic products, including skin creams and lotions, makeup powders and foundations, lipsticks, nail care products, deodorants and talcum and dusting powder. These products, which accounted for approximately 47%, 45%, 41% and 37%, respectively, of the Company's sales and revenues in 1967, 1968, 1969 and 1970, are sold principally under the trademarks *Pond's*, *Cutex*, *Angel Face*, *Angel Skin*, *Vaseline*, *Fresh Start*, *Peggy Sage*, *Odo-ro-no* and *Dreamflower*. The largest selling products are *Pond's* skin creams, *Cutex* nail polish, nail polish remover and lipstick, *Angel Face* makeup, *Vaseline Intensive Care* lotion and *Odo-ro-no* deodorants. Most of the Company's royalty income is derived from cosmetics, principally *Cutex* products.

PROPRIETARY AND SPECIALTY PRODUCTS—Approximately 32%, 31%, 29% and 34% of the Company's sales and revenues in 1967, 1968, 1969 and 1970, respectively, consisted of proprietary products used principally for medicinal and toiletry purposes and in the case of certain products for a wide variety of other uses. These products include plain and medicated petroleum jellies, cough and cold remedies, cotton swabs, absorbent cotton, toothpaste and hair dressings and shampoos, and are sold principally under the trademarks *Vaseline*, *Cheseline*, *Q-Tips*, *Pertussin*, and *Groom & Clean*. The largest selling products are *Vaseline* petroleum jelly, *Q-Tips* cotton swabs, *Pertussin* cough and cold remedies, *Vaseline* and *Groom & Clean* hair dressings and shampoos and *Durban's* toothpaste.

FRAGRANCES AND FASHION ITEMS—Approximately 7%, 7%, 7% and 8% of the Company's sales and revenues in each of the years 1967, 1968, 1969 and 1970 resulted from the manufacture and sale of perfumes, colognes, bath oils, eye makeup, beauty treatment items and after shave lotions. These products are sold principally under the trademarks *Prince Matchabelli*, *Wind Song*, *Golden Autumn*, *Prophecy*, *Cachet*, *Abano*, *Aziza*, *Laszlo* and *Royall Lyme*.

SPECIALTY FOODS—The Company sold in 1967, 1968, 1969 and 1970 specialty food products, principally spaghetti sauce, under the name *Ragu*. Sales totalled approximately 7%, 8%, 10% and 12% of total sales and revenues for such years, respectively.

OTHER—Approximately 0%, 3%, 7% and 4%, respectively, of the Company's sales and revenues for 1967, 1968, 1969 and 1970 were derived from the distribution, outside the United States, of various products of other manufacturers under their trademarks.

In 1967, 1968, 1969 and 1970 respectively, the Company's Consumer Package Goods line represented approximately 93%, 94%, 94% and 95% of total sales and 98%, 99%, 97% and 100% of total income before provision for taxes on income.

Hospital Supplies

In 1967, 1968, 1969 and 1970 the Company's Hospital Products Division contributed approximately 7%, 6%, 6% and 5% respectively, of sales. Products include sterile gauze dressings, ointments and creams, cotton swabs, bandages, thermometers and various sets and devices for hospital use, which are sold under the trademarks *Vaseline*, *Q-Tips*, *Surgilube*, *Lily White*, *Faichney*, *Day-Baldwin*, *Clinical Products*, and *Ballo* and under private labels.

Distribution

In 1970, the Company served over 100,000 accounts, no one of which represented as much as 5% of consolidated net sales. Most of the sales were made by the Company's own sales force.

In the United States, the Company's own sales force sells to wholesale distributors and to certain drug, food, variety and department store accounts.

In 1970, each of the following areas accounted for 10% or more of foreign net sales: Europe; United Kingdom; South America; Australia and Far East; and Africa. Canada and the area of Central America—Mexico—West Indies, each accounted for in excess of 5% of such foreign net sales.

Substantially all non-domestic sales are derived from products manufactured locally in various countries through subsidiaries, branches, agents and licensees. In the major non-domestic markets, the Company's own sales force sells to wholesale distributors, retailers, and independent agents. In certain markets, however, the Company sells raw materials and components to licensees, or licensees purchase such materials from local sources for manufacture and assembly into finished goods which are then sold to wholesalers or retailers.

The Company's distribution activities extend throughout most of the free world. Its operations outside of the United States in 1970 accounted for 43% of consolidated net sales, 100% of royalty income, and 40% of consolidated net income.

Product Development and Quality Control

The Company maintains its principal research and development facilities in Connecticut, New Jersey and England and has quality control operations at almost all plant sites, worldwide. Approximately 85 research scientists, principally chemists, are employed in these facilities. All operations by licensees, including quality of components, formulation, and finished products, are carefully controlled by the Company.

Advertising and Promotion

The Company recognizes that advertising and promotion have a marked influence on consumer brand preferences. Accordingly, advertising and promotion costs represent a significant portion of the Company's total expenses. All of the major media—television, magazines, newspapers and radio—are regularly used. The Company engages actively in store promotions and point-of-sale advertising, and maintains a staff of package design, display and color specialists.

Competition

There is intense competition among manufacturers of those kinds of products sold by the Company. The extent to which the Company enjoys a dominant position among the manufacturers of the types of products sold by the Company varies widely among products. The Company is the leader in the free world in sales of petroleum jelly and of cotton swabs and one of the leaders in the sale of clinical thermometers. The Company competes with many other firms with respect to most of its other cosmetics, proprietary and specialty products, food specialties, fragrances and fashion items and hospital supplies.

Government Regulation

The domestic business of the Company is subject to regulation by the Federal Trade Commission, the Federal Food and Drug Administration, the Department of Agriculture, the Alcohol and Tobacco Tax Unit of the Treasury Department, and to various state and local regulations. Foreign operations are subject to somewhat similar laws and regulations in the various countries where business is transacted. The Company is also subject abroad to the regulations of foreign countries respecting exchange and currency and terms and conditions of employment.

Trademarks

The Company's trademarks, including the trademarks named under "Products", are of material importance to its business. The Company's principal trademarks are registered wherever possible throughout the world.

Employees

In approximate figures, the Company has 8,600 employees, of which 3,600 are in the United States. Approximately 70 employees engaged in production, refining, warehousing and shipping operations in the United States are covered by union contracts and approximately 790 foreign employees are unionized. The Company has had no strikes, slowdowns, or stoppages in the past five years materially adversely affecting the business of the Company, and it considers its labor relations to be satisfactory.

There is no employee benefit plan covering all employees. However, certain groups of employees participate in pension, profit-sharing, group life and accident insurance, hospitalization, medical, surgical and major medical plans. The United States pension, and all profit-sharing plans, are non-contributory. Certain other plans require partial employee contributions.

Acquisitions

During 1966 the Company acquired in two unrelated transactions the capital stock of Lily White Sales Company, Inc., a manufacturer of surgical dressings and hospital supplies, and Faichney Instrument Corporation, the nation's oldest and second largest manufacturer of clinical thermometers, in exchange for an aggregate of 183,188 shares of the Company's Common Stock.

In two other unrelated 1966 transactions, the Company acquired for cash the assets of the Erno Laszlo Institute, a distributor of high quality cosmetic and skin care lotions and creams, and the stock of Ballo Thermometer Co., a manufacturer of clinical and veterinary thermometers.

In 1967, the Company purchased for cash the capital stock of Clinical Products, Inc., a supplier of hospital products, and acquired the Royall Lyme group of companies, manufacturer of men's toiletries, in exchange for 27,000 shares of the Company's Common Stock and a small amount of cash.

During 1968, Société Française de Distribution, S.A., a French company engaged in the distribution of cosmetics and grooming aids, and Consortium Méditerranéen de Parfumerie S.A., a Monaco-based cosmetics manufacturer, were purchased for cash by Chesebrough-Pond's International Capital Corporation, a wholly-owned subsidiary of the Company.

In 1969, Day-Baldwin Inc., a manufacturer and distributor of pharmaceutical ointments and dermatological cream specialties, merged with a subsidiary of the Company. A total of 96,558 shares of the Company's Common Stock were issued in connection with this merger and by reason of the exercise of stock purchase warrants of Day-Baldwin Inc. outstanding at the time of the acquisition. Also in 1969, Chesebrough-Pond's International Capital Corporation acquired for cash a controlling interest in International Chemical & Cosmetic Co., S.p.A., a major Italian manufacturer of pharmaceuticals, toiletries and cosmetics, and three affiliated companies. In February 1971, the company acquired the remaining minority interest in International Chemical & Cosmetic Co., S.p.A. and substantially all the minority interests in the affiliated companies for cash, plus 69,767 shares of Common Stock.

Pursuant to an agreement dated December 10, 1969, a subsidiary of the Company acquired substantially all the assets and business of Ragu Packing Co. Inc., a manufacturer and distributor of spaghetti sauce and other specialty food products, and certain of its affiliates, in exchange for 885,000 shares of Common Stock of the Company and the assumption by the Company of certain liabilities of Ragu.

See Note 1 to Consolidated Financial Statements for information as to the accounting treatment of these acquisitions.

The Company from time to time considers the acquisition of other businesses.

PROPERTIES

The Company leases for its principal executive offices and certain administrative departments approximately 95,000 square feet at 485 Lexington Avenue, New York, New York. This lease expires in 1977. The Company is negotiating a long-term lease on a building of approximately 108,000 square feet to be constructed in Greenwich, Connecticut, which would serve as its future headquarters. It then intends to sublease the space currently occupied by it in New York City.

The Company also owns and leases approximately 2,400,000 and 1,100,000 square feet of space, respectively, used for manufacturing, storage, shipping, sales and administrative offices. Owned properties are located in Connecticut, Florida, Indiana, Missouri, New Jersey, New York, Argentina, Australia, Canada, Ceylon, England, France, Germany, Italy, Japan, Mexico, Monaco, Rhodesia, Republic of South Africa and Venezuela. Leased manufacturing facilities are located in Missouri (see Note 6 to Consolidated Financial Statements), New Jersey, New York, Bermuda, Brazil, Colombia, Eire, Indonesia, Republic of South Africa, Spain, Uruguay and Zambia. Leases expire in various years to 1985.

MANAGEMENT

Directors and Executive Officers

<u>Name</u>	<u>Office</u>
J. Edgar Bennett*	Director, Group Vice President
John F. Betts	Director, Chairman of the Board of Interpace Corporation

<u>Name</u>	<u>Office</u>
Alfred S. Foote	Director, Senior Vice President of Morgan Guaranty Trust Company of New York
James H. Green*	Director, Vice President
William L. Jackson*	Director, Group Vice President
Alexander N. McFarlane	Director, Honorary Chairman of CPC International Inc.
Frank J. McGroarty*	Director, Vice President and Secretary
Alvin W. Pearson	Director, Managing Director of Lehman Brothers Incorporated (investment bankers)
Morris W. Primoff	Director, Member of the law firm of Primoff & Primoff
Albert B. Richardson	Director, Vice President
Ralph E. Ward*	Director, President and Chief Executive Officer
William C. Watson*	Director, Executive Vice President
Robert W. Bennett	Vice President
Francis X. Golden	Vice President
Jack J. Goodman	Vice President
Perry D. Lindholm	Vice President
Frank L. Stamberg	Vice President
J. Tylee Wilson	Vice President
Donald G. Wiesen	Treasurer

* Members of Executive Committee.

Each of the above named officers has been actively engaged in the business of the Company for more than five years, except Mr. Jackson who served in various capacities with General Foods Corporation, principally marketing and advertising positions in the Post and Jell-O divisions of that corporation, before joining the Company in December, 1966, Dr. Goodman who was employed by Noxell Corporation as Vice President and Director of Research prior to joining the Company in April, 1968, Mr. Green who was President of Pfizer-Europe, a division of Pfizer International Inc., prior to his employment by the Company in June, 1969, Mr. Robert W. Bennett who managed the New York office of Heidrick & Struggles (personnel consultants) before joining the Company in January, 1969, and Mr. J. Edgar Bennett who was President of P. Lorillard Company prior to May, 1970, when he joined the Company.

Lehman Brothers, the predecessor organization to Lehman Brothers Incorporated, of which Alvin W. Pearson, a director of the Company, is Managing Director, received a fee of \$180,000 from Chesebrough-Pond's International Capital Corporation for arranging in 1968 the purchase of \$12,000,000 principal amount of that corporation's 4¾% Guaranteed (Subordinated) Debentures due 1983, and in 1969 Lehman Brothers served as the principal underwriter for \$25,000,000 principal amount of that corporation's 6¼% Guaranteed (Subordinated) Debentures due 1984 and was paid underwriting commissions by that corporation in the amount of \$103,750 for its services.

In addition the Company has a line of credit with Morgan Guaranty Trust Company of New York, of which Alfred S. Foote, a Director of the Company, is a Senior Vice President.

As of February 28, 1971, all officers and directors of the Company as a group owned beneficially, directly or indirectly, 145,311 shares of the Common Stock of the Company, which represented 1.2% of the outstanding shares of Common Stock on that date, and exclusive of units credited to the accounts of participants under the Executive Incentive Profit-Sharing Plan, as described below. In addition, the Company's officers and directors have purchased 16,635 shares pursuant to the Company's Stock Purchasing Plan, which shares have not as yet been issued.

Remuneration

During the fiscal year ended December 31, 1970, the direct remuneration paid by the Company and its subsidiaries, to, and the units deferred under the Company's Executive Incentive Profit-Sharing Plan for, each director, and each of the three highest paid officers, who received more than \$30,000 and all officers and directors as a group, was as follows:

Direct Remuneration

Name of Individual or Identity of Group	Capacities in Which Remuneration Received	Salary and Other Payments(1)	Cash Distribution Under Profit-Sharing Plan(2)	Estimated Annual Pension Benefits(3)
Ralph E. Ward	Director, President and Chief Executive Officer	\$120,042	\$ 17,600	\$ 30,000
William C. Watson	Director, Executive Vice President	81,693	13,140	29,419
William L. Jackson	Director, Group Vice President	64,766	9,240	22,610
J. Edgar Bennett	Director, Group Vice President	37,491	—	8,495
James H. Green	Director, Vice President	60,378	—	18,858
Frank J. McGroarty	Director, Vice President and Secretary	58,349	—	30,000
Albert B. Richardson	Director, Vice President	50,532	7,920	22,888
All directors and officers as a group* ...		\$810,347	\$114,444	\$300,657

Units Deferred Under Profit Sharing Plan(2)

Name of Individual or Identity of Group	Dividends(4)		Deferral for 1970		Total to December 31, 1970	
	Units	Dollar Equivalent	Units	Dollar Equivalent	Units	Dollar Equivalent
Ralph E. Ward	121.48	(\$ 5,315)	100.57	(\$ 4,400)	5,484.36	(\$ 239,941)
William C. Watson	139.63	(\$ 6,109)	33.37	(\$ 1,460)	6,221.48	(\$ 272,190)
William L. Jackson	24.36	(\$ 1,066)	52.80	(\$ 2,310)	1,132.72	(\$ 49,557)
J. Edgar Bennett	—	—	101.71	(\$ 4,450)	101.71	(\$ 4,450)
James H. Green	4.50	(\$ 197)	262.85	(\$11,500)	461.96	(\$ 20,211)
Frank J. McGroarty	121.25	(\$ 5,305)	236.57	(\$10,350)	5,610.30	(\$ 245,451)
Albert B. Richardson(5)	7.26	(\$ 318)	20.11	(\$ 880)	342.35	(\$ 14,978)
All directors and officers as a group* ..	586.25	(\$25,652)	1,368.85	(\$59,890)	27,353.16	(\$1,196,702)

* Includes a total of 16 officers and directors for the full year and 7 for portions of the year.

(1) Other payments consist of directors' fees and payments in lieu of dividends on shares of Common Stock purchased but not yet issued under the Company's Stock Purchasing Plan.

- (2) The Executive Incentive Profit-Sharing Plan, which was last approved by stockholders in May, 1966, became effective January 1, 1958. Under the current Plan a committee of at least three non-participating directors each year selects for participation and determines the allotments to those key employees who contribute in a notable degree to the success of the Company. The total amount allocable annually is 3% of the first \$15,000,000 of the Company's net income (consolidated net income as set forth in the Company's Annual Report but before allocations to the Plan, Federal or foreign income taxes and significant non-recurring items) for the year plus 5% of net income in excess thereof. No allocation is made during any year unless net income for such calendar year as defined above shall be sufficient to pay all income taxes (other than taxes on excluded non-recurring items), pay a total annual dividend of 68¢ per share on Common Stock presently outstanding (or its equivalent in the case of any Common Stock adjustment), permit an addition of \$2,700,000 to retained earnings, and pay in full allocations to the Plan. No participant shall be entitled to an amount in excess of 50% of his annual basic compensation in any one year. Cash distributions to any participant are determined annually by the committee. The balance (shown in the table "Deferral for 1970" in parentheses) is converted to "Units" by dividing it by the average market price of a share of the Company's Common Stock during December of the year for which the allotment was made. In December, 1970, this average price was \$43.75. Such units, together with additional units in lieu of dividends, are credited annually to each participant. The total credit is converted to an equivalent number of shares of stock and such shares are distributed in installments upon retirement. Such conversion may also be made and such shares distributed upon termination of employment or death, either in installments or at one time. The Company reserves the right to distribute cash instead of shares in an amount equal to the then market price of an equivalent number of shares. The amounts shown in parentheses in the table "Total to December 31, 1970" represent the cash distributable if the Company exercised such right and the market price of a share of stock were \$43.75, the average price in December, 1970. The deferred credits are forfeitable for acts detrimental to the welfare of the Company. During 1970, 81 persons participated in the Plan.
- (3) Except as otherwise indicated, amounts shown are payable under the Company's Pension Plan which qualifies as non-discriminatory under Section 401 of the Internal Revenue Code of 1954. Such amounts assume remuneration at the same rate as at the close of the last fiscal year and retirement at age 65.
- (4) Employee Participants in the Executive Incentive Profit-Sharing Plan, in lieu of cash dividends, are credited with the dollar amount which would have been paid as such dividends during 1970 if a Participant's units were shares of Common Stock; such credit, however, is in the form of additional units determined by converting such dollar amount (shown in the table "Dividends" in parentheses) into units at the average market price of a share of stock in December, 1970 (\$43.75).
- (5) Mr. Richardson's deferred account under the Plan also carries a credit in the cash sum of \$52,343. Pursuant to the Plan as amended, interest on such deferred amount for the year 1970 at 3% per annum, or \$1,570, has also been credited to his account.

Management Participation in Stock Purchasing Plan

In the years 1968, 1969 and 1970, purchase contracts were entered into under the Plan with officers named in the table under "Remuneration" and with other officers for the number of shares, at the aggregate purchase prices and at the aggregate market values set forth in the table below:

<u>Name</u>	<u>Title</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>
Ralph E. Ward	Director, President and Chief Executive Officer	4,700 (\$72,521) (\$194,756)	5,400 (\$94,662) (\$245,700)	5,020 (\$96,585) (\$260,413)
William C. Watson	Director, Executive Vice President	3,500 (\$54,005) (\$145,031)	4,000 (\$70,120) (\$182,000)	3,450 (\$66,378) (\$178,969)
William L. Jackson	Director, Group Vice President	3,000 (\$46,290) (\$124,313)	3,000 (\$52,590) (\$136,500)	2,850 (\$54,834) (\$147,844)
J. Edgar Bennett	Director, Group Vice President	—	—	1,510 (\$29,052) (\$53,983)
Frank J. McGroarty	Director, Vice President and Secretary	2,700 (\$41,661) (\$111,881)	2,550 (\$44,702) (\$116,025)	1,830 (\$35,209) (\$94,931)
Albert B. Richardson	Director, Vice President	2,400 (\$37,032) (\$99,450)	1,950 (\$34,184) (\$88,725)	1,190 (\$22,896) (\$61,731)
Jack J. Goodman	Vice President	1,200 (\$18,516) (\$49,725)	1,800 (\$31,554) (\$82,238)	2,080 (\$40,019) (\$107,900)
James H. Green	Vice President	—	1,500 (\$26,295) (\$58,125)	2,010 (\$38,672) (\$104,269)
Perry D. Lindholm	Vice President	1,875 (\$28,931) (\$77,659)	2,400 (\$42,072) (\$107,900)	2,080 (\$40,019) (\$109,200)
Donald Heller	Former Vice President	1,500 (\$23,145) (\$62,156)	1,500 (\$26,295) (\$68,531)	1,635 (\$31,457) (\$84,816)
Robert J. Shaw	Former Vice President	2,400 (\$37,032) (\$99,450)	1,950 (\$34,184) (\$88,725)	—
J. Grandel Jones	Former Director and Treasurer	2,400 (\$37,032) (\$99,450)	2,400 (\$42,072) (\$109,200)	—

Other officers also entered into purchase contracts under the Plan during such years, but no transaction in any year for any one such officer involved a purchase price in excess of \$30,000, and the aggregate number of shares, the aggregate purchase prices, and the aggregate market values for all of such other officers for each such year were as follows: 1968, 7,600 (\$117,268) (\$317,142); 1969, 7,700 (\$138,487) (\$359,825); 1970, 9,960 (\$191,632) (\$516,674). The aggregate market values shown are as of the date of each purchase contract although the shares may not be disposed of for a period of five years. See Note 5 to Consolidated Financial Statements.

DESCRIPTION OF CAPITAL STOCK

General

The Company's authorized capital stock consists of 1,000,000 shares of Preferred Stock, par value \$1 per share, none of which is outstanding, and 15,000,000 shares of Common Stock par value \$1 per share. The Board of Directors is empowered to issue the Preferred Stock in series and to determine preferences and limitations of the shares of each series. Any dividend, sinking fund, conversion or redemption provisions pertaining to outstanding shares of Preferred Stock may of course reduce the amount of net income available for distribution to holders of Common Stock or for other corporate purposes.

The summary contained herein of the provisions of the Company's Certificate of Incorporation pertaining to its capital stock does not purport to be complete and is subject in all respects to the full provisions set forth therein.

Dividend Rights; Restrictions on Purchase

The Board of Directors may set limitations upon the payment of dividends on shares of the Company's Preferred or Common Stock. Under the Company's Loan Agreements with various institutional lenders, dividends (other than stock dividends), other distributions and purchases or redemptions of stock of the Company subsequent to December 31, 1960 may not exceed consolidated net income as defined in such Agreements subsequent to December 31, 1960 plus \$5,000,000, or reduce consolidated working capital as so defined to less than \$20,000,000. A credit against purchases or redemptions of stock is given for cash sales of stock. Subject to such limitations and all rights of the Preferred Stock, holders of Common Stock are entitled to receive dividends when and as declared by the Board of Directors out of funds legally available therefor.

Voting Rights

Subject to the right of holders of Preferred Stock to elect a maximum of four members of the Board of Directors during certain periods when dividends on the Preferred Stock are in default and subject to such other voting rights as may be granted by the Board of Directors to the holders of any series of Preferred Stock, holders of Common Stock are entitled to one vote per share for the election of directors and on all other matters submitted to a vote of stockholders.

Non-Cumulative Voting

The Common Stock has non-cumulative voting rights, which means that the holders of more than 50% of the voting power can elect 100% of the directors if they choose to do so (subject to the voting rights of the Preferred Stock), and, in such event, the holders of the shares entitled to the remaining less than 50% of the voting power will not be able to elect any person or persons to the Board of Directors.

Liquidation Rights

Subject to the rights of the holders of Preferred Stock, upon liquidation, dissolution, or winding up, the holders of Common Stock are entitled to share ratably in all assets available for distribution to stockholders.

Preemptive Rights

As provided in Section 622 of the New York Business Corporation Law, holders of the Company's Common Stock have a preemptive right in certain circumstances and under certain conditions to purchase certain types of securities including Common Stock offered for cash, the issuance of which to others would adversely affect their dividend or voting rights. Holders of Common Stock have no preemptive rights with respect to shares of Common Stock issued (a) with the approval of stockholders, to officers, employees and directors whether upon exercise of rights or options or sale in any other manner, and (b) upon conversion of, or in exchange for, debentures issued by the Company or any subsidiary or affiliate thereof provided that such debentures are initially offered for sale and are sold outside of the United States. Subject to the foregoing, the Business Corporation Law gives holders of the Company's Common Stock preemptive rights to purchase securities which are convertible into shares of Common Stock, or which have general voting rights. There are no preemptive rights, however, to purchase such convertible securities issued to effect a merger, or for consideration other than cash. Holders of Preferred Stock will not have preemptive rights.

Other Provisions

The outstanding shares of Common Stock are fully paid and nonassessable and the holders thereof are not subject to any liability as stockholders.

Transfer Agent and Registrar

The Transfer Agent for the Common Stock is The Chase Manhattan Bank, N.A., New York, New York, and the Registrar is Bankers Trust Company, New York, New York.

EXPERTS

The consolidated financial statements of Chesebrough-Pond's Inc. and subsidiaries appearing in this Prospectus and Registration Statement have been examined by Arthur Young & Company, certified public accountants, as set forth in their report appearing elsewhere herein which, as to the year 1966, is based in part on the reports of other independent accountants. The consolidated statements mentioned above are included in reliance upon such reports of these firms appearing elsewhere in this Prospectus or in the Registration Statement and upon the authority of such firms as experts.

LEGAL OPINIONS

Legal matters in connection with the issuance and sale of the shares of Common Stock offered hereby are being passed upon for the Company by White & Case, 14 Wall Street, New York, New York 10005.

ADDITIONAL INFORMATION

Information in addition to that contained in this Prospectus is set forth in the Registration Statement, and Exhibits relating thereto, which the Company has filed with the Securities and Exchange Commission, Washington, D. C., under the Securities Act of 1933. Such information can be inspected without charge at the principal office of the Commission at 500 North Capitol Street, N. W., Washington, D. C. and copies of such material can be obtained from the Commission at prescribed rates.

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REPORT OF CERTIFIED PUBLIC ACCOUNTANTS

The Board of Directors
CHESEBROUGH-POND'S INC.

We have examined the accompanying consolidated balance sheet of Chesebrough-Pond's Inc. and subsidiaries at December 31, 1970 and December 31, 1969, the related consolidated statements of income, capital surplus and retained earnings for the five years ended December 31, 1970 and the consolidated statement of source and application of working capital for the three years ended December 31, 1970. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We have received the reports of other independent public accountants with respect to their examinations of the financial statements of certain foreign subsidiaries for the year ended December 31, 1966.

In our opinion, based upon our examination and the reports of other independent public accountants referred to above, the statements mentioned above present fairly the consolidated financial position of Chesebrough-Pond's Inc. and subsidiaries at December 31, 1970 and December 31, 1969, the consolidated results of their operations for the five years ended December 31, 1970 and the consolidated source and application of their working capital for the three years ended December 31, 1970, in conformity with generally accepted accounting principles applied on a consistent basis during the period.

ARTHUR YOUNG & COMPANY

New York, N. Y.
February 25, 1971

Reports of other independent public accountants referred to above, which are included in the Registration Statement filed with the Securities and Exchange Commission, and the subsidiaries to whose financial statements they relate are as follows:

Northam Warren Argentina Sociedad Anonima Industrial y Comercial—Price Waterhouse Peat & Co.
Pond's Argentina Sociedad Anonima Industrial y Comercial—Price Waterhouse Peat & Co.
Chesebrough-Pond's (Mexico) S.A. de C.V.—Price Waterhouse & Co.

CONSOLIDATED FINANCIAL STATEMENTS
CHESEBROUGH-POND'S INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET

ASSETS

	December 31,	
	1979	1969
Current assets:		
Cash	\$ 7,357,000	\$ 6,425,000
Short-term investments, at cost which approximates market	7,369,000	11,324,000
Accounts receivable	54,172,000	47,019,000
Inventories (Note 3)	47,193,000	42,401,000
Prepaid expenses	5,777,000	4,774,000
Total current assets	121,868,000	111,943,000
Property, plant and equipment, at cost (Note 4)	66,895,000	61,823,000
Less accumulated depreciation	25,724,000	23,344,000
Net property, plant and equipment	41,171,000	38,479,000
Other assets	5,036,000	2,622,000
Deferred taxes (Notes 4 and 7)	802,000	790,000
Goodwill and trademarks, at cost (Note 1)	34,638,000	32,099,000
	<u>\$203,515,000</u>	<u>\$185,933,000</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities:		
Notes payable and foreign bank overdrafts	\$ 8,432,000	\$ 6,832,000
Accounts payable	15,677,000	19,669,000
Accrued liabilities:		
Salaries, wages and commissions	1,013,000	1,197,000
Taxes, other than income taxes	3,312,000	2,990,000
Other	8,090,000	5,991,000
Federal and foreign income taxes	5,672,000	4,032,000
Long-term obligations due within one year	1,861,000	1,230,000
Total current liabilities	44,057,000	41,941,000
Long-term obligations (Note 6)	45,523,000	47,625,000
Deferred executive incentive compensation (Note 7)	1,746,000	1,646,000
Minority interest in consolidated subsidiaries	1,118,000	679,000
Stockholders' equity:		
Preferred stock, par value \$1.00 per share		
Authorized and unissued—1,000,000 shares		
Common stock, par value \$1.00 per share (Note 5):		
Authorized—15,000,000 shares		
Issued—12,019,550 shares (1969—11,682,318)	12,020,000	11,682,000
Capital surplus	13,974,000	6,261,000
Retained earnings (Note 6)	86,841,000	77,949,000
	112,835,000	95,892,000
Less 57,943 (1969—60,754) shares of treasury stock, at cost	1,764,000	1,850,000
Total stockholders' equity	111,071,000	94,042,000
	<u>\$203,515,000</u>	<u>\$185,933,000</u>

See accompanying notes to financial statements.

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CAPITAL SURPLUS
AND RETAINED EARNINGS

CAPITAL SURPLUS

	Year ended December 31,				
	1966	1967	1968	1969	1970
Balance at beginning of year	\$ 701,000	\$ 2,223,000	\$ 2,962,000	\$ 4,602,000	\$ 6,261,000
Proceeds in excess of par value on issuance of common stock under the Stock Purchasing Plan (Note 5)	739,000	837,000	1,070,000	1,334,000	4,590,000
Excess of conversion price of debentures over par value of stock issued (Note 6)	—	—	—	—	2,445,000
Tax benefit relative to the Stock Purchasing Plan (Note 5)	783,000	546,000	570,000	464,000	663,000
Charge pertaining to treasury stock used in poolings of interests less net proceeds from warrants exercised (Note 1)	—	(644,000)	—	(39,000)	—
Purchase and retirement of warrants by acquired company	—	—	—	(100,000)	—
Proceeds in excess of cost of treasury stock issued in exchange for warrants (Note 1)	—	—	—	—	15,000
Balance at end of year	<u>\$ 2,223,000</u>	<u>\$ 2,962,000</u>	<u>\$ 4,602,000</u>	<u>\$ 6,261,000</u>	<u>\$13,974,000</u>

RETAINED EARNINGS

Balance at beginning of year	\$47,857,000	\$54,031,000	\$61,651,000	\$70,727,000	\$77,949,000
Retained earnings of acquired companies including adjustment for different fiscal year (Note 1)	—	171,000	521,000	—	—
Charge pertaining to treasury stock used in pooling of interests	—	—	—	(2,710,000)	—
Net income	<u>13,403,000</u>	<u>15,610,000</u>	<u>17,644,000</u>	<u>20,015,000</u>	<u>20,878,000</u>
	<u>61,260,000</u>	<u>69,812,000</u>	<u>79,816,000</u>	<u>88,032,000</u>	<u>98,827,000</u>
Cash dividends	<u>7,229,000</u>	<u>8,161,000</u>	<u>9,089,000</u>	<u>10,083,000</u>	<u>11,986,000</u>
Balance at end of year (Note 6)	<u>\$54,031,000</u>	<u>\$61,651,000</u>	<u>\$70,727,000</u>	<u>\$77,949,000</u>	<u>\$86,841,000</u>

See accompanying notes to financial statements.

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF SOURCE AND APPLICATION
OF WORKING CAPITAL

	Year ended December 31,		
	1968	1969	1970
SOURCE			
Net income	\$17,644,000	\$20,015,000	\$20,878,000
Add charges to net income not involving working capital:			
Depreciation	2,703,000	3,062,000	3,038,000
Stock Purchasing Plan tax benefit	570,000	464,000	663,000
Deferred executive incentive compensation less related deferred taxes	116,000	97,000	52,000
Provided from operations	21,033,000	23,638,000	24,631,000
Conversion of debentures into common stock	—	—	2,496,000
Increase in long-term obligations	7,525,000	29,475,000	1,634,000
Book value of disposed assets	213,000	898,000	1,545,000
Proceeds from stock issued under Stock Purchasing Plan	1,175,000	1,449,000	4,876,000
Proceeds from sale of stock by acquired company	385,000	—	—
Proceeds from exercise of warrants	—	79,000	51,000
Other	2,000	(85,000)	87,000
	<u>\$30,333,000</u>	<u>\$55,454,000</u>	<u>\$35,320,000</u>
APPLICATION			
Additions to property, plant and equipment (including \$1,154,000 and \$6,791,000 of acquired companies in 1968 and 1969)	\$ 4,761,000	\$13,907,000	\$ 7,275,000
Increase in other assets	90,000	1,387,000	1,975,000
Increase in goodwill	5,867,000	17,244,000	2,539,000
Decrease in convertible debentures	—	—	2,496,000
Decrease in long-term obligations	1,225,000	1,230,000	1,240,000
Purchase of Company's common stock	1,776,000	800,000	—
Dividends	9,089,000	10,083,000	11,986,000
Increase in working capital	7,525,000	10,803,000	7,809,000
	<u>\$30,333,000</u>	<u>\$55,454,000</u>	<u>\$35,320,000</u>
Changes in components of working capital:			
Increase (decrease) in current assets:			
Cash and short-term investments	\$ 6,692,000	\$(4,149,000)	\$(3,023,000)
Accounts receivable	7,053,000	9,478,000	7,153,000
Inventories	3,250,000	7,522,000	4,792,000
Prepaid expenses	23,000	1,838,000	1,003,000
	<u>17,018,000</u>	<u>14,689,000</u>	<u>9,925,000</u>
Increase (decrease) in current liabilities:			
Notes payable and foreign overdrafts	3,588,000	275,000	1,600,000
Accounts payable and accrued liabilities	7,081,000	6,740,000	(1,755,000)
Federal and foreign income taxes	(1,186,000)	(3,134,000)	1,640,000
Long-term obligations due within one year	10,000	5,000	631,000
	<u>9,493,000</u>	<u>3,886,000</u>	<u>2,116,000</u>
Increase in working capital	<u>\$ 7,525,000</u>	<u>\$10,803,000</u>	<u>\$ 7,809,000</u>

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF CONSOLIDATION

The consolidated financial statements include the accounts of all domestic and foreign subsidiaries.

During 1966, the Company acquired the capital stock of Lily White Sales Company, Inc. and Faichney Instrument Corporation in exchange for 183,188 shares of its common stock. These acquisitions have been accounted for as poolings of interests.

The Company purchased Erno Laszlo Institute and Ballo Thermometer Company in 1966 and Clinical Products, Inc. in 1967 for cash. The operations of these companies have been included in the consolidated financial statements from their respective dates of acquisition.

In 1968, the capital stock of the Royall Lyme group of companies was acquired in exchange for 27,000 shares of the Company's common stock held in treasury and a small amount of cash. This transaction has been accounted for as a pooling of interests. As the operations of this company were not material in relation to net income, they were not included in the consolidated statement of income prior to January 1, 1968.

During 1968, the Company purchased for cash two companies in France and Monaco. The operations of these companies were included in the consolidated financial statements from the effective date of acquisition. The \$5,867,000 goodwill increase in 1968 represents the excess of the purchase price over the cost of the net assets acquired.

Pursuant to agreements dated July 2, 1969 and December 10, 1969, the Company acquired the common stock of Day-Baldwin Inc. and the net assets of Ragu Packing Co. Inc., respectively, for a total of 978,524 shares of common stock (including 93,524 treasury shares). These acquisitions have been accounted for as poolings of interests and, accordingly, the accompanying consolidated financial statements have been restated to include the accounts of these two companies. Subsequent to the acquisition of Day-Baldwin, 3,034 shares of the Company's common stock were issued upon exercise of Day-Baldwin warrants at \$43.00 and \$51.60 per share.

In October 1969, the Company acquired for cash a controlling interest in International Chemical & Cosmetic Co., S.p.A. and three affiliated companies. The net results of their 1969 operations since the date of acquisition, which were not material, were included in miscellaneous income in the consolidated statement of income in that year. The \$17,244,000 and \$2,539,000 goodwill increase in 1969 and 1970, respectively, represents primarily the excess of the purchase price over the cost of the net assets acquired. In February 1971, under provisions contained in the original purchase contract, the company acquired the remaining minority interest in International Chemical & Cosmetic Co., S.p.A. and substantially all of the minority interests in the affiliated companies for cash, plus 69,767 shares of common stock.

Intercompany accounts and material intercompany transactions have been eliminated in consolidation.

The Company's equity in the net assets of consolidated subsidiaries as shown by their books exceeded by \$33,041,000 and \$25,254,000 on December 31, 1970 and December 31, 1969, respectively, the Company's investment therein. In consolidation this amount was distributed as follows:

	1970	1969
Retained earnings	\$41,545,000	\$34,087,000
Goodwill and trademarks	(1,222,000)	(1,551,000)
Capital surplus	(7,282,000)	(7,282,000)
	<u>\$33,041,000</u>	<u>\$25,254,000</u>

Since, in the opinion of the Company, goodwill and trademarks do not have a limited period of existence, no amortization has been provided.

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—Continued

2. FOREIGN OPERATIONS AND BASIS OF TRANSLATION

The consolidated balance sheets at December 31, 1970 and 1969 include net assets of \$46,992,000 and \$45,313,000, respectively, for subsidiaries and branches in foreign countries. Property, plant, equipment, goodwill and trademark accounts were translated into dollars at the appropriate rates of exchange at dates of acquisition. All other assets and liabilities were translated at the approximate year-end rates of exchange. Operating accounts, except depreciation, were translated at rates of exchange in effect during the year. Unrealized gain or loss from such translations is reflected in the consolidated statement of income.

3. INVENTORIES

Inventories are stated at the lower of cost (first-in, first-out method) or market (replacement cost).

The amounts used in determining cost of sales for the five years ended December 31, 1970 were: January 1, 1966—\$27,447,000; December 31, 1966—\$31,510,000; December 31, 1967—\$31,629,000; December 31, 1968—\$34,879,000; December 31, 1969—\$42,401,000; December 31, 1970—\$47,193,000.

The December 31, 1970 and 1969 balances are comprised of the following:

	December 31,	
	1970	1969
Finished goods	\$20,747,000	\$17,876,000
Raw materials and materials in process	26,446,000	24,525,000
	<u>\$47,193,000</u>	<u>\$42,401,000</u>

4. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment, together with estimated years of useful life used in computing depreciation and amortization on major items, is summarized as follows:

	December 31,		Estimated Years of Useful Life
	1970	1969	
Land	\$ 4,434,000	\$ 4,448,000	
Buildings	24,670,000	23,651,000	7-50
Machinery and equipment	32,332,000	29,931,000	5-20
Leasehold improvements	1,221,000	1,147,000	Life of lease
Construction in progress	4,238,000	2,646,000	
	<u>\$66,895,000</u>	<u>\$61,823,000</u>	

Effective January 1, 1970, the Company changed from accelerated methods of depreciation to the straight-line method for certain assets in the U. S. The change had no material effect on net income for 1970. Depreciation on substantially all assets is now provided on the straight-line method for accounting purposes. The Company continues to use accelerated depreciation methods for U. S. income tax purposes and provides for deferred income taxes.

The investment tax credits, which were not material in amount, have been applied as a reduction of the provision for federal income tax.

Expenditures for maintenance and repairs are charged to income. Additions, renewals and betterments are capitalized. Upon retirement of complete units, the cost and accumulated depreciation and amortization applicable thereto are eliminated from the accounts and any resulting profit or loss is included in income.

5. STOCK PURCHASING PLAN

Under the Stock Purchasing Plan as amended by the stockholders in May 1961, shares of the Company's common stock were sold to certain officers and administrative employees at a price per share equal to fourteen times the average

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—Continued

earnings per share for the five years preceding the year in which sold. On May 2, 1968, the stockholders approved the continuation of the Plan and reserved an additional 600,000 shares.

Payments may be made in installments over a period of five years, and interest is payable on the unpaid balance. On the unissued shares for which purchase agreements are outstanding, participants are paid an amount per share equal to the dividends paid by the Company on issued shares. The purchaser may not dispose of the shares purchased for a period of five years from the date of acceptance of the purchase agreement by the Company. Not more than 150,000 shares may be made available for purchase in any one year and not more than 4% thereof can be allocated to any one individual in any year.

The status of employee subscriptions granted under this Plan at December 31, 1970 follows:

	1966	1967	1968	1969	1970
Shares subscribed for:					
Shares issued*	82,265	85,980	54,450	111,035	105,235
Shares to be issued upon completion of installments	17,905	31,655	50,270	2,250	5,350
Shares for which subscriptions were cancelled	—	(165)	(150)	(1,000)	—
	<u>100,170</u>	<u>117,470</u>	<u>104,570</u>	<u>112,285</u>	<u>110,585</u>
Selling price per share	\$11.84	\$13.50	\$15.43	\$17.53	\$19.24
Aggregate selling price of shares subscribed for	\$1,186,013	\$1,585,845	\$1,613,515	\$1,968,356	\$2,127,655
Average market price per share at dates of employee subscriptions	\$30.03	\$35.47	\$41.66	\$45.44	\$51.35
Aggregate market price of shares at dates of employee subscriptions	\$3,008,212	\$4,166,885	\$4,356,458	\$5,102,209	\$5,678,603

* Shares issued in 1970 applicable to 1966, 1967, 1968 and 1969 subscriptions were 13,060, 24,820, 27,000 and 103,510, respectively.

At December 31, 1970, 499,560 shares of common stock were reserved for issuance under the Plan, against which subscriptions were outstanding for 106,115 unissued shares.

Under regulations of the United States Treasury Department in effect at the time the elections were exercised, the Company is entitled to a tax deduction for the difference between the purchase and market prices on the date of the employee's subscription or the date the five-year restriction period mentioned above ends, whichever is the lesser. An amount equivalent to the tax benefit provided by these regulations has been charged to income and has been credited to capital surplus as additional consideration received by the Company for the stock sold under the Plan.

6. LONG-TERM OBLIGATIONS

Long-term obligations at December 31, excluding the portion due within one year were:

	1970	1969
4¾% convertible debentures, due 1983	\$ 9,504,000	\$12,000,000
6¾% convertible debentures, due 1984	25,000,000	25,000,000
5% Notes, due in equal annual installments through 1976	5,000,000	6,000,000
Long-term lease obligation	4,385,000	4,625,000
Promissory Note due in monthly installments through March 10, 1975 (interest at ½% over prime rate)	1,634,000	—
Total	<u>\$45,523,000</u>	<u>\$47,625,000</u>

CHESBROUGH-POND'S INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—Continued

In 1969, Chesebrough-Pond's International Capital Corporation, a wholly-owned subsidiary, sold to purchasers outside the United States \$12,000,000 principal amount of 4¼% debentures and \$25,000,000 principal amount of 6¼% debentures. These debentures are guaranteed on a subordinated basis as to principal and interest by Chesebrough-Pond's Inc. The 4¼% debentures are convertible into common stock of Chesebrough-Pond's Inc. at \$49.00 per share and are subject to redemption through annual sinking fund payments of \$350,000 beginning December 31, 1976. The 6¼% debentures are convertible into common stock of Chesebrough-Pond's Inc. at \$53.50 per share and are subject to redemption through annual sinking fund payments of \$1,800,000 beginning December 15, 1977. During 1970, \$2,496,000 of the 4¼% debentures were converted into 50,922 shares. At December 31, 1970, an aggregate of 661,248 shares of common stock were reserved for conversion of the debentures.

The agreement pertaining to the 5% Notes provides that the Company will not pay cash dividends or acquire any shares of its capital stock except to the extent of \$5,000,000 plus consolidated net income (as defined) subsequent to December 31, 1960, or if the consolidated net current assets would be reduced by such action to less than \$20,000,000. At December 31, 1970, \$57,811,000 (December 31, 1969—\$50,002,000) of consolidated retained earnings were not restricted under these provisions.

A long-term lease for a plant has been treated as a purchase for both accounting³ and tax purposes. An annual rental of approximately \$400,000 is payable through 1985 to cover principal and interest payments on the related industrial development bonds. The Company has an option to purchase the facilities at any time by funding an amount sufficient to retire the then outstanding debt or for a nominal amount after the retirement of the debt.

7. DEFERRED EXECUTIVE INCENTIVE COMPENSATION

Charges to income under the provisions of the Company's Executive Incentive Profit-Sharing Plan (approved by the stockholders May 1, 1958) were: 1966—\$426,000; 1967—\$524,000; 1968—\$568,000; 1969—\$648,000; 1970—\$599,000. Of these amounts, a portion has been deferred and converted into units measured by the market value of a share of the Company's common stock. Participants will receive, upon retirement, death or termination of employment, shares of the Company's treasury stock equal to the number of units credited to their accounts unless the Company elects to distribute cash equal to the market value of such shares. At December 31, 1970 there were 49,416 units (December 31, 1969—47,659) credited to participants under the Plan. The estimated future federal tax reduction has been shown as deferred taxes in the balance sheet.

8. RETIREMENT PLANS

The Company has various retirement plans covering the majority of its employees. The Company's accounting and funding policies are the same. Past service costs have been fully funded for the principal plans. Amounts charged to income for all plans were: 1966—\$368,000; 1967—\$312,000; 1968—\$289,000; 1969—\$553,000; 1970—\$1,122,000.

9. SUPPLEMENTARY EXPENSE INFORMATION

Supplementary expense information for the five years ended December 31, 1970 follows:

	Year ended December 31,				
	1966	1967	1968	1969	1970
Maintenance and repairs:					
Charged to cost of goods sold	\$1,765,000	\$1,741,000	\$1,844,000	\$1,746,000	\$1,693,000
Other charges to income	172,000	225,000	221,000	199,000	261,000
	<u>\$1,937,000</u>	<u>\$1,966,000</u>	<u>\$2,065,000</u>	<u>\$1,945,000</u>	<u>\$1,954,000</u>

CHESEBROUGH-POND'S INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—Continued

	Year ended December 31,				
	1966	1967	1968	1969	1970
Depreciation and amortization:					
Charged to cost of goods sold	\$1,262,000	\$1,633,000	\$1,817,000	\$2,253,000	\$2,120,000
Other charges to income	829,000	689,000	886,000	809,000	918,000
	<u>\$2,091,000</u>	<u>\$2,322,000</u>	<u>\$2,703,000</u>	<u>\$3,062,000</u>	<u>\$3,038,000</u>
Taxes, other than federal and foreign income taxes:					
Payroll taxes:					
Charged to cost of goods sold	\$ 763,000	\$ 915,000	\$1,207,000	\$1,499,000	\$2,042,000
Other charges to income	606,000	692,000	1,174,000	1,768,000	2,471,000
	<u>\$1,369,000</u>	<u>\$1,607,000</u>	<u>\$2,381,000</u>	<u>\$3,267,000</u>	<u>\$4,513,000</u>
Real and personal property taxes:					
Charged to cost of goods sold	\$ 328,000	\$ 262,000	\$ 311,000	\$ 523,000	\$ 390,000
Other charges to income	250,000	145,000	270,000	275,000	354,000
	<u>\$ 578,000</u>	<u>\$ 407,000</u>	<u>\$ 581,000</u>	<u>\$ 798,000</u>	<u>\$ 744,000</u>
Sales and excise taxes:					
Deducted from gross sales	<u>\$5,155,000</u>	<u>\$5,818,000</u>	<u>\$6,879,000</u>	<u>\$7,454,000</u>	<u>\$6,871,000</u>
Miscellaneous:					
Charged to cost of goods sold	\$ 271,000	\$ 197,000	\$ 302,000	\$ 516,000	\$ 416,000
Other charges to income	602,000	550,000	898,000	1,302,000	953,000
	<u>\$ 873,000</u>	<u>\$ 747,000</u>	<u>\$1,200,000</u>	<u>\$1,818,000</u>	<u>\$1,369,000</u>
*Rents:					
Charged to cost of goods sold	\$ 294,000	\$ 332,000	\$ 453,000	\$ 611,000	\$ 640,000
Other charges to income	801,000	1,355,000	1,586,000	2,012,000	2,661,000
	<u>\$1,095,000</u>	<u>\$1,687,000</u>	<u>\$2,039,000</u>	<u>\$2,623,000</u>	<u>\$3,301,000</u>
Royalties:					
Charged to cost of goods sold	<u>\$ 160,000</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 179,000</u>

* The Company has only two long-term leases of any significance, one of which calls for basic annual rental payments of \$697,000 to 1977. The other is described under Note 6.

There were no management or service contract fees.

Chesebrough-Pond's Inc.

305 LEXINGTON AVENUE, NEW YORK, N.Y. 10017

May 12, 1972

M. Sapri

TO ALL 1971 STOCK PURCHASING PLAN PARTICIPANTS

On Sunday, May 7, 1972, the 140 shares which you agreed to purchase in 1971 under the Stock Purchasing Plan were no longer subject to forfeiture. Based on our interpretation of Section 83 of the Internal Revenue Code introduced into the tax law in 1969 and confirmed by outside counsel, a taxable event has occurred even though you may not sell, assign or pledge the shares.

The amount to be included as "Other Compensation Paid in 1972" on your Form W2 which you will receive in 1973 will be \$ 6,342.00 which amount is the excess of the average daily market price on May 5, 1972 (the last business day prior to May 7, 1972) over the purchase price of \$21.20 per share. The market quotations for stock at the close of business on May 5, 1972 were:

High: 66-3/4

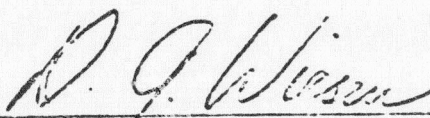
Low: 66-1/4

Mean: 66-1/2

Please contact me if you have any questions regarding the above.

Very truly yours,

CHESEBROUGH-POND'S INC.



D. G. Wiesen
Vice President and Treasurer

67 T. C. No. 81

UNITED STATES TAX COURT

MIRIAM SAKOL, Petitioner v. COMMISSIONER OF INTERNAL
REVENUE, Respondent

Docket No. 4834-74

Filed March 23, 1977.

Sec. 83(a), I.R.C. 1954, measures income derived from the transfer of property in connection with the performance of services without regard to contractual restraints on the transfer of that property which will lapse. Held, sec. 83(a) is not unconstitutional under the 5th or 16th Amendments.

Burton G. Lipsky, for the petitioner.

Patrick Matwiczuk, for the respondent.

OPINION

GOFFE, Judge: The Commissioner determined a deficiency in petitioner's Federal income tax for the taxable year 1972 in the amount of \$3,318.80. Concessions having

23 1977

been made, the sole issue for decision is whether section 83(a)¹ is unconstitutional because it measures petitioner's gross income derived from an employee stock purchase agreement without regard to certain contractually imposed restrictions on the transferability of the shares purchased under the agreement.

All of the facts have been stipulated and are so found. Ms. Miriam Sakol (petitioner) filed her Federal income tax return for the taxable year 1972 with the Internal Revenue Service Center, Holtsville, New York. At the time the petition was filed, petitioner resided in New York City, New York.

During 1972 petitioner was employed by Chesebrough-Pond's, Inc. (Chesebrough), which had in effect a stock purchase plan for its officers and administrative employees (the plan). Officers and employees electing to purchase stock under the plan were required to enter into a stock purchase agreement with Chesebrough. The standard agreement provided that \$1 par value common stock could be purchased for an amount equal to 14 times Chesebrough's average per share earnings during the preceding five years. Payment of the purchase price could be made in installments over a

¹All section references are to the Internal Revenue Code of 1954, as amended, unless otherwise noted.

period not to exceed five years, however, the employee could prepay the balance at any time. Shares purchased under the agreement would not be issued or delivered and title to the purchased shares would not vest in the employee until the purchase price was paid in full.

On May 7, 1971, petitioner entered into such a stock purchase agreement with Chesebrough, agreeing to purchase 140 shares of \$1 par value common stock at a price of \$21.20 per share. For a period of one year, the shares purchased by petitioner were subject to forfeiture at a price equal to that paid by her in the event that she ceased to be employed by Chesebrough for any reason other than death. In addition, petitioner agreed that she would continue to own and not sell, pledge or transfer any interest in the shares for a period of five years or until May 7, 1976. Chesebrough was willing to retain the shares for safekeeping until the expiration of the five-year period, and shares delivered to petitioner would bear a legend noting the restrictions on the transferability of the shares.

On Sunday, May 7, 1972, the 140 shares acquired by petitioner were no longer subject to forfeiture. On the last business day prior to that date, the average New York Stock Exchange price quotation for Chesebrough common stock was \$66.50 per share. Therefore, the difference between the

average market price of Chesebrough common and the amount paid by petitioner for her shares acquired under the stock purchase agreement was \$6,342 when the shares were no longer subject to forfeiture. The Commissioner, in his statutory notice of deficiency, determined that this amount represented compensation for services, includable in petitioner's gross income pursuant to section 83(a) for the taxable year 1972.

Petitioner has launched a serious constitutional assault on section 83(a) on two fronts. On one front, petitioner contends that the section imposes a "conclusive presumption" as to the amount of income derived from the May 7, 1971, stock purchase without a fair opportunity to rebut and, therefore, amounts to a denial of due process of law within the meaning of the Fifth Amendment of the Constitution of the United States. On the other, she contends that section 83(a) disregards certain restrictions on transferability in defining income, exceeding the power granted to Congress by the 16th Amendment.

From the outset it is important to note the presumption in favor of the validity of an act of Congress, which is particularly strong in the case of a taxing statute. Penn Mutual Indemnity Co., 32 T.C. 653, 658 (1959). Moreover, a revenue measure will not, in general, be set aside if any

state of facts can be shown to rationally justify the provision. United States v. Maryland Savings-Share Insurance Corp., 400 U.S. 4, 6 (1970).

Section 83² is the Congressional response to certain tax advantages which could be obtained through use of restricted stock plans³ to compensate employees. The section

²SEC. 83. PROPERTY TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) GENERAL RULE.--If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of--

(1) the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

(2) the amount (if any) paid for such property, shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

* * *

(c) SPECIAL RULES.--For purposes of this section--

(1) SUBSTANTIAL RISK OF FORFEITURE.--The rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property are conditioned upon the future performance of substantial services by any individual.

(2) TRANSFERABILITY OF PROPERTY.--The rights of a person in property are transferable only if the rights in such property of any transferee are not subject to a substantial risk of forfeiture.

³See S. Rept. No. 91-552, 91 Cong., 1st Sess. (1969), 1969-3 C.B. 500.

provides that property transferred in connection with the performance of services is to be included in the income of the transferee in an amount which exceeds the employee's cost by the fair market value of the property transferred, without regard to any contractual restriction on its disposition except a restriction which by its terms will never lapse. The proper time to include that amount is deemed to be the taxable year in which the property is transferable or no longer subject to a substantial risk of forfeiture.

To properly evaluate petitioner's attack on section 83, it is helpful to consider the background of restricted stock purchase plans and the unwarranted tax avoidance made possible by their use.

Restricted stock purchase plans became more popular after two decisions of this Court. In Harold H. Kuchman, 18 T.C. 154 (1952), we held that stock issued under an agreement restricting its disposition prevented the stock from having a fair market value when acquired and, therefore, did not require reporting income at the time the stock was issued. Previously, in Robert Lehman, 17 T.C. 652 (1951), we held that income was not realized when the restrictions terminated, thus taxation was deferred until the subsequent disposition of the property. In 1956, regulations were proposed to the effect that income would be realized in an

amount equal to the fair market value of the property over the employee's cost at the time the restrictions lapsed. The regulations adopted in 1959 as section 1.421-6(d)(2), Income Tax Regs., provided, with respect to bargain purchases of stock subject to restrictions having a significant effect on value, that tax would be imposed only when the restrictions lapsed or the property was sold in an arm's-length transaction. However, the measure of income was changed. The amount taxable as ordinary income was the lesser of the fair market value of the stock at the time of its acquisition, determined without regard to any restrictions, or at the time the restrictions lapsed, over the employee's cost of the stock.

Quite obviously, under this scheme, substantial benefits were available to an employee in a restricted stock purchase plan. Dividends were immediately available while the tax on the value of the shares was deferred and capital gains treatment was accorded the capital appreciation occurring in the period between the acquisition of the stock and the lapse of the restrictions.

In 1968 regulations were again proposed⁴ which would have taxed the fair market value of the restricted stock at the time of the lapse of the restrictions, thereby eliminating

⁴ Sec. 1.421-6, Income Tax Regs., 33 Fed. Reg. 15870 (1968).

the capital gain potential on the post-acquisition appreciation. However, it was at this point that Congress responded with section 83, designed to reduce the potential for tax avoidance and to accord more equitable treatment to similar deferred compensation arrangements. S. Rept. No. 91-552, 91 Cong., 1st Sess. (1969), 1969-3 C.B. 500, is clear in this regard:

General reasons for change.--The present law treatment of restricted stock plans is significantly more generous than the treatment specifically provided in the law for other types of similarly funded deferred compensation arrangements. An example of this disparity can be seen by comparing the situation where stock is placed in a non-exempt employees' trust rather than given directly to the employee subject to restrictions. If an employer transfers stock to a trust for an employee and the trust provides that the employee will receive the stock at the end of 5 years if he is alive at that time, the employee is treated as receiving and is taxed on the value of the stock at the time of the transfer. However, if the employer, instead of contributing the stock to the trust, gives the stock directly to the employee subject to the restriction that it cannot be sold for 5 years, then the employee's tax is deferred until the end of the 5-year period. In the latter situation, the employee actually possesses the stock, can vote it, and receives the dividends, yet his tax is deferred. In the case of the trust, he may have none of these benefits, yet he is taxed at the time the stock is transferred to the trust.

Congress resolved to alter the timing of the recognition of income derived from such stock purchase agreements. Income would be recognized at such time as the shares were either transferable, as defined in the statute, or when they were no longer subject to a substantial risk of forfeiture.

In addition, to minimize the potential for continued tax avoidance and to further discourage the use of restricted stock purchase plans as a means of obtaining an equity interest in one's employer, Congress decided to measure the income derived from such arrangements without regard to transitory restrictions imposed by the parties on the shares purchased.

Petitioner maintains that section 83, in disregarding contractual restrictions, imposes a tax on an amount which has not been realized and, therefore, is not income within the purview of the 16th Amendment.

In support of this contention, petitioner relies on language extracted from two early cases, MacLaughlin v. Alliance Ins. Co., 286 U.S. 244 (1932), and Eisner v. Macomber, 252 U.S. 189 (1920). However, in our view petitioner has placed too much reliance on these cases and the Supreme Court's long-abandoned effort to fashion a concept of income. The powers granted to the Congress to define income are broad and plenary. Penn Mutual Indemnity Co., 32 T.C. 653, 666 (1959). The formalistic concept of realization articulated in the cases upon which petitioner relies has been eroded by the passage of time and subsequent cases and clearly was never intended to define for all times the parameters of income subject to taxation. Commissioner v. Glenshaw Glass Co., 348 U.S. 426 (1955); Helvering v. Horst,

311 U.S. 112 (1940); Helvering v. Bruun, 309 U.S. 461 (1940). Moreover, taxation despite nonreceipt is common and the actual reduction to possession is not a constitutional requirement. See, e.g., Harrison v. Schaffner, 312 U.S. 579 (1941); Helvering v. Horst, supra; Lucas v. Earl, 281 U.S. 111 (1930).

In any event, the 16th Amendment is not a limitation on the taxing power granted to Congress by the Constitution. It is, instead, designed to insure that the power to tax income is not placed into the category of direct taxation subject to apportionment. It is clear that section 83 does not impose a direct tax within the meaning of the Constitution and, therefore, is entirely within the taxing power of Congress under article 1, section 8, without regard to the 16th Amendment. Cf. Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904). See also, Penn Mutual Indemnity Co., supra, at 662-663. Accordingly, we hold that section 83 does not exceed the Congressional authority to tax income.

Although an amount may properly be viewed as income within the meaning of the Constitution, the question remains whether the imposition of a tax on that amount is consonant with due process under the Fifth Amendment. Riverfront Groves, Inc., 60 T.C. 435 (1973).

Herein, petitioner takes the position that her income may not exceed the fair market value of the restricted stock she received under the agreement. She argues that section 83, in its conclusive measurement of income without regard to the restrictions on the transferability of her shares, is so arbitrary and unreasonable as to amount to a denial of due process within the meaning of the Fifth Amendment.

On its face, section 83 does not utilize the language of presumptions; it merely defines income earned when property is received "in connection with the performance of services." However, the substance and impact of the section is substantially the same as a conclusive presumption of the amount of income. In recent years, a considerable body of law has developed with regard to conclusive presumptions and the due process clause of the Fifth Amendment. See, e.g., Cleveland Board of Education v. LaFleur, 414 U.S. 632 (1974); Vlandis v. Kline, 412 U.S. 441 (1973); U.S. Dept. of Agriculture v. Murry, 413 U.S. 508 (1973). Much of the analysis applied in these cases can be traced to Heiner v. Donnan, 285 U.S. 312 (1932), and Schlesinger v. Wisconsin, 270 U.S. 230 (1926), upon which petitioner relies herein.

In Donnan,⁵ an estate tax case, the Court found unconstitutional under the due process clause section 302(c) of

⁵The issue and reasoning in Schlesinger v. Wisconsin, 270 U.S. 230 (1926), is substantially the same, dealing, however, with a section of

the Revenue Act of 1926 which deemed any transfer made by a decedent within two years of death to have been made in contemplation of death and, therefore, includable in the decedent's gross estate for tax purposes. The Court reasoned that the statute operated arbitrarily by not allowing the estate's executor any opportunity to establish that the gifts were not, in fact, made in contemplation of death. Moreover, the result was further justified by the fact that the estate was burdened by a tax measured in part by the value of property which was never owned by the estate.

More recently in Vlandis, supra, the Court found unconstitutional a Connecticut statute which classified prospective students as permanent nonresidents for purposes of tuition payment in the state university when their legal address was outside the state at the time their application for admission was made or at some point during the preceding year. Seemingly, the Court was primarily concerned with whether the individuals were accurately grouped and it stated:

We hold only that a permanent irrebuttable presumption of nonresidence--the means adopted by Connecticut to preserve that legitimate interest--is violative of the Due Process Clause, because it provides no opportunity for students who applied from out of State to demonstrate that they have become bona fide Connecticut residents. * * *
[Vlandis v. Kline, 412 U.S. at 453.]

Footnote 5 - continued.

the Wisconsin tax code. In addition, petitioner has on brief argued that we approved the theory of Heiner v. Donnan, 285 U.S. 312 (1932), in Charles Wilson, 39 T.C. 362 (1962). However, we did not pass upon the constitutional issue presented there and, therefore, find it unpersuasive.

The standard employed was meticulous; the due process clause would be violated if the conclusive presumption were not necessarily and universally true in fact. The remedy afforded was to ascertain whether the treatment of the individual was consistent with the statute's purpose.

Justice Rehnquist, in his dissent, argued that the majority's analysis of and its reliance on Donnan were reminiscent of and inexorably linked to the long-repudiated principles of "substantive due process" and contrary to the teaching of Ferguson v. Skrupa, 372 U.S. 726 (1963), which held that courts should not substitute their social and economic beliefs for those of the elected legislative bodies.

From a close examination of the conclusive presumption cases, it is apparent that the concern with the statutory accuracy of what is, in essence, a delineation of a class of persons who are to bear a burden or receive a benefit under prescribed circumstances closely resembles the analysis applied in equal protection cases.

Finally, in Weinberger v. Salfi, 422 U.S. 749 (1975), Justice Rehnquist, writing for the majority, noted that various holdings in similar cases dealing with irrebuttable presumptions did not "sound precisely the same note" and, therefore, discussed at some length the proper test to be applied in cases of this sort. Returning to a more traditional equal protection analysis, the Court stated:

The question is whether Congress, its concern having been reasonably aroused by the possibility of an abuse which it legitimately desired to avoid, could rationally have concluded both that a particular limitation or qualification would protect against its occurrence, and that the expense and other difficulties of individual determinations justified the inherent imprecision of a prophylactic rule. * * * [422 U.S. at 777.]

The Court also quoted with approval from Richardson v. Belcher, 404 U.S. 78 (1971), where it was held that an act of Congress will not be so arbitrary as to offend due process where the legislative classification is rationally related to the achievement of legitimate legislative goals. Moreover, a legislative enactment need not be in every respect logically consistent with those goals to be constitutional. Williamson v. Lee Optical Co., 348 U.S. 483, 487 (1955).

It is also important to consider that in neither Donnan nor Vlandis was the Court confronted with the same kind of clear constitutional power which is granted to Congress to define income subject to taxation. The salient distinction in Donnan is the fact that the taxpayer's estate never owned the property, while petitioner herein is merely charged in advance with an incremental value which in some sense is inherent in the property and in all probability the real measure of the compensation intended by the parties. Moreover, the tax consequences were clearly delineated in the

Chesebrough stock purchase plan and presumably petitioner was aware of the measure of her compensation.

Prior to enactment of section 83, contractual restrictions were utilized to maximize both tax deferral and capital gain potential on the ultimate disposition of the shares. Cognizant of such abuse, Congress chose to recognize only those restrictions which it felt were not utilized to produce such unwarranted tax benefits.

H. Rept. No. 91-413, 91 Cong., 1st Sess. (1969), 1969-3 C.B. 255 states:

Explanation of provision.--For the above reasons, your committee's bill provides that a person who receives a beneficial interest in property by reason of the performance of services is to be taxed with respect to the property at the time of receipt, either if his interest in the property is transferable or if it is not subject to a substantial risk of forfeiture. In this case, the person is to be required to include in income the amount by which the fair market value of the property exceeds the amount (if any) he paid for the property. For this purpose, the fair market value of the property is to be determined without regard to any restriction, except a restriction which by its terms will never lapse. Restrictions which by their terms never lapse, for example, a requirement that an employee sell the stock back to the employer * * * are not, in your committee's opinion, tax-motivated and should be distinguished from restrictions designed to achieve deferral for tax saving purposes. [Emphasis added.]

Undoubtedly, the efficacy of the Congressional design to eliminate the dual benefits of tax deferral and capital gain would have been dangerously undermined without a strict measure of the income resulting from such agreements. There can be no doubt that Congress may adopt a measure calculated

to prevent an avoidance of tax. Helvering v. City Bank, 29 U.S. 85, 90 (1935). The plethora of contractual restriction which could be designed would create substantial problems of valuation; an alternative Congress may seek to avoid. Helvering v. Lerner Stores Co., 314 U.S. 463, 468 (1941). Moreover, the recognition of contractual restrictions would build into every share of stock a deferral and potential capital gain increment, albeit on a smaller scale, resulting from the immediate imposition of tax under the proscribed statutory conditions.

Traditionally, to invalidate a taxing statute, it must be shown that Congress did a wholly arbitrary thing or found equivalent where there was none or anything approaching it. United States v. Manufacturers National Bank, 363 U.S. 194 (1960); Burnet v. Wells, 289 U.S. 670 (1933).

As respondent points out, there are other examples of conclusive presumptions in the tax code. The Civil Service Retirement Act is a prime example wherein the employee is presumed to have consented to payroll deductions for contributions to the retirement plan while taxed currently on those amounts. A tax on the full amount has been sustained in Hogan v. United States, 513 F.2d 170 (6th Cir. 1975), and Lawrence J. Cohen, 63 T.C. 267 (1974), although based primarily on the facts and not the constitutional validity of a tax on amounts arguably in excess of the current economic benefit.

However, the continued use of conclusive presumptions as a statutory technique in taxing statutes lends credibility to the notion that their use in this regard is not arbitrary or unreasonable.

We are unable to say that Congress, in responding to an area of tax avoidance created by the use of such restrictions which it now refuses to recognize, acted arbitrarily. While some unfairness and inequity may result from the operation of section 83, Congress could rationally have concluded that such a result was justified by the ease and certainty of the section's operation. Weinberger v. Salfi, 422 U.S. at 777. We are convinced, moreover, that section 83 is a rational response to an area of substantial tax abuse. Moritz v. Commissioner, 469 F.2d 466 (10th Cir. 1972), cert. denied 412 U.S. 906 (1973).

We conclude that section 83 is a valid exercise of the taxing power and consonant with the principles established in Weinberger, supra, and Burnet, supra. In any event, the question is clearly not so free from doubt so as to rebut the real and vital presumption in favor of the validity of a taxing statute. Penn Mutual Indemnity Co., 32 T.C. 653 (1959). Accordingly, we hold that section 83 is constitutional.

Decision will be entered
under Rule 155.

UNITED STATES TAX COURT

MIRIAM SAKOL,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

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Docket No. 4834-74

DECISION

Pursuant to the opinion of the Court filed March 23, 1977, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED and DECIDED: That there is a deficiency in income tax due from the petitioner for the taxable year 1972 in the amount of \$2,813.00.

(signed) William A. Coffe

Judge.

Entered: JUN 29 1977

It is hereby stipulated that the foregoing decision is in accordance with the opinion of the Court and the respondent's computation, and that the Court may enter this decision, without prejudice to the right of either party to contest the correctness of the decision entered herein.

Burton G. Lipsky
BURTON G. LIPSKY
Counsel for Petitioner
230 Park Avenue
New York, New York 10017

LEON G. WIGRIZER
Acting Chief Counsel
Internal Revenue Service

By: (Sgd) GERALD BACKER-JSH
GERALD BACKER
Assistant Regional Counsel
26 Federal Plaza, 12th Fl.
New York, New York 10007
Tel. No. 212-264-0273

JUN 24 1977

NOTICE OF APPEAL

UNITED STATES TAX COURT

-----X
MIRIAM SAKOL,

Petitioner,

Docket No.
4834-74

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.
-----XNOTICE OF APPEAL

Notice is hereby given that MIRIAM SAKOL hereby appeals to the United States Court of Appeals for the Second Circuit from the decision of this Court entered in the above captioned proceeding on the 29th day of June, 1977.

BURTON G. LIPSKY, ESQ.
Counsel for Petitioner
Office and P.O. Address
230 Park Avenue
New York, N.Y. 10017
(212) 661-9800

COURT OF APPEALS
SECOND CIRCUIT

MIRIAM SAKOL,
Petitioner-Appellant,

- against -

COMMISSIONER OF INTERNAL REVENUE,
Respondent-Appellee.

Index No.

Affidavit of Service by Mail

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

I, Robert L. Martinez, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at 1165 Morris Avenue; Bronx, New York; 10456
That on the 28th day of Sept. 19 77 deponent served the annexed

Appendix

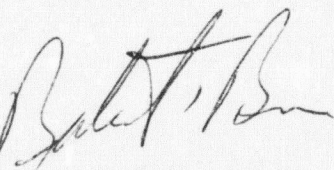
Brief upon M. Carr Ferguson
Asst. Attorney General
in this action, at Washington D.C.

attorney(s) for

the address designated by said attorney(s) for that purpose by depositing a true copy of same, enclosed in a postpaid properly addressed wrapper in a Post Office Official Depository under the exclusive care and custody of the United States Post Office Department, within the State of New York.

Sworn to before me, this 28th
day of Sept., 1977.

Robert L. Martinez



ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31-0418950
Qualified in New York County
Commission Expires March 30, 1979